UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

IN CLERKS OFFICE

2005 FEB 15 P 4: 12

DENNIS J. SOLOMON,

Plaintiff,

US. DISTRICT COURT DISTRICT OF MASS

v.

Civil Action No. 04-12499WGY

CHARLES VEST, *et al.*,

Defendants.

MEMORANDUM IN SUPPORT OF THE MOTION OF THE DEFENDANT MASSACHUSETTS INSTITUTE OF TECHNOLOGY TO DISMISS THE PLAINTIFF'S COMPLAINT

The defendant Massachusetts Institute of Technology (MIT) submits this memorandum in support of its motion pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss the plaintiff's claims against MIT on the grounds of res judicata and failure to make specific factual allegations against MIT.

The plaintiff, Mr. Solomon, has filed a prolix and largely incomprehensible complaint against MIT, two of its employees (Dr. Charles M. Vest, its former President, and Lita Nelsen, the Director of its Technology Licensing Office), 41 other named defendants, and either 10 (in the heading of the Complaint) or 25 (in the body of the Complaint (¶ 35)) Jane and John Does. Of the three MIT defendants, only the corporate entity MIT has been served, and the motion to dismiss has therefore been filed only by MIT.

Background

The Complaint before this Court (the Massachusetts Complaint) asserts twelve counts claiming noninfringement and patent invalidity, abuse of process, fraud,

conspiracy, antitrust, extortion, interference with advantageous relationships, breach of contract, bribery, commercial disparagement, RICO violations, and Lanham Act violations by various individual defendants or groups of defendants.

Certain counts in the Massachusetts Complaint might be read to refer in their headings to all of the defendants, and therefore to include MIT (Count III (p. 5) ("et al [sic]"), first Count V (p. 11) ("Et Al [sic]"), second Count V (p. 12) ("Et Al [sic]"), first Count VI (p. 13) ("All Defendants"), Count VIX [sic] (p. 16) ("All Defendants"), third Count VI (p. 16) ("All Defendants"), and Count VII (p. 17) ("All Defendants")). But only the second Count IV (p. 15) identifies MIT by name. The allegations regarding MIT in that second Count IV refer to MIT allegedly licensing, and then wrongfully terminating, the so-called "Kollin patent" to Mr. Solomon and his company, Volumetric Imaging, Inc. (¶¶ 163 and 166).

In March 1998 Mr. Solomon and HoloDeck Trust filed an action in the United States District Court for the Western District of Washington, *Solomon v. University of Washington, et al.* (No. C98-258L), against MIT and ten other defendants. The form of the plaintiffs' Complaint in that action that was served on MIT is annexed to this Memorandum as Attachment A (the Washington Complaint). The Washington Complaint alleged five counts of conspiracy, RICO, antitrust, extortion, and interference with advantageous relationships claims.

All of the counts in the Washington Complaint referred in their headings to defendants generally, and therefore could have been read to include MIT (Count I (p. 16)

ount I (n. 8) Count II (n. 0) the first Count IV (n. 11) and the s

¹ Count I (p. 8), Count II (p. 9), the first Count IV (p. 11), and the second Count VI (p. 13) refer only to specifically-named defendants (not including MIT), with no generic references to "et al."

("Defendants"), (Count II (p. 17) ("Defendants"), (Count III (p. 17) ("Defendants"), (Count VI [sic] (p. 18) ("Defendants"), and (Count V (p. 19) ("Defendants"). But only Count V (p. 19) mentioned MIT by name. The allegations regarding MIT in that Count V referred to its alleged licensing, and then wrongful termination, of the so-called "VI-MIT patent" (¶ 61). That patent was described earlier in the Washington Complaint as the Kollin patent, licensed to Volumetric Imaging, Inc., by MIT (¶ 29).

Document 3

MIT moved for summary judgment on the Washington Complaint. In the Report and Recommendation of the Magistrate Judge dated February 12, 2000 (a copy of which is annexed to this Memorandum as Attachment B), the Magistrate Judge recommended that all of the counts against MIT be dismissed with prejudice (pp. 9, 12-13, 14, 17, and 19). By order dated April 7, 2000 (a copy of which is annexed to this Memorandum as Attachment C), the District Court adopted the Report and Recommendation of the Magistrate Judge, granted summary judgment to MIT (¶ 2), and dismissed the plaintiffs' action with prejudice (¶ 5). Judgment on that basis was entered on April 14, 2000 (a copy of the final judgment of the District Court is annexed to this Memorandum as Attachment D). On appeal, the Ninth Circuit summarily affirmed the judgment of the District Court on July 20, 2001 (a copy of the opinion is attached to this memorandum as Attachment E). On January 3, 2002 the Ninth Circuit issued a Mandate affirming the District Court (a copy of the judgment of the Ninth Circuit is annexed to this Memorandum as Attachment F).

or "defendants."

Argument

The plaintiff's Complaint before this Court obviously fails to satisfy the requirement of F.R. Civ. P. 8(a) that it contain a "short and plain statement of the claim showing that the pleader is entitled to relief" from MIT.

But MIT wishes to make it emphatically clear to this Court that MIT is not seeking dismissal of the plaintiff's Complaint on that ground. Nor is MIT asking this Court to allow the plaintiff another opportunity to elaborate on his convoluted conspiratorial theories. In the Washington action, the civil docket (a copy of which is annexed to this Memorandum as Attachment G) extended for four years, with 176 separate entries. MIT urges the Court to dismiss the plaintiff's Complaint against MIT at the outset of this action, and thereby to avoid any further waste of judicial resources and of MIT charitable funds in a futile attempt to shape the plaintiff's allegations into cognizable legal claims.

The Court has a sound basis for such a dismissal for the two reasons set out in this memorandum: all of the counts in the plaintiff's Massachusetts Complaint that could possibly be read to refer to MIT should be dismissed on the ground that they were determined, or could have been determined, in the Washington action, and therefore are barred by the doctrine of res judicata; ² in addition, the counts in the plaintiff's Massachusetts Complaint that do not refer specifically to MIT should also be dismissed

² A motion to dismiss pursuant to F.R. Civ. P. 12(b)(6) is an appropriate vehicle for raising a res judicata defense, because "matters of public record are fair game in adjudicating Rule 12(b)(6) motions." *In re Colonial Mortgage Bankers Corp.*, 324 F.3d 12, 16, 19 (1st Cir. 2003). *See also*

Boateng v. InterAmerican Univ., Inc., 210 F.3d 56, 60 (1st Cir. 2000).

because they fail to make the specific factual allegations against MIT that are required to state a claim.

I. THE ONE COUNT IN THE PLAINTIFF'S COMPLAINT THAT REFERS TO MIT SPECIFICALLY, AS WELL AS ALL OF THE COUNTS THAT REFER GENERICALLY TO "DEFENDANTS" OR "ET AL.," SHOULD BE DISMISSED BECAUSE THEY ARE BARRED BY RES JUDICATA.

"Under res judicata, a final judgment on the merits of an action precludes parties or their privies from relitigating issues that were or could have been raised in that action." Massachusetts Sch. of Law at Andover, Inc. v. American Bar Ass'n, 142 F.3d 26, 38 (1st Cir. 1998) (quoting Allen v. McCurry, 449 U.S. 90, 94 (1980)).

When the first lawsuit and the second potentially-precluded lawsuit are both litigated in federal court, the Court should look to federal law to assess the res judicata effect of the first judgment. 142 F.3d at 37. The elements of res judicata (also referred to as "claim preclusion") under federal law are "(1) a final judgment on the merits in an earlier suit, (2) sufficient identicality between the causes of action asserted in the earlier and later suits, and (3) sufficient identicality between the parties in the two suits." *Id.* (quoting *Gonzalez* v. *Banco Central Corp.*, 27 F.3d 751, 755 (1st Cir. 1994)). Under this formulation by the First Circuit of the requirements for a finding of res judicata, the plaintiff's claims against MIT in the Massachusetts action are precluded by the prior judgment in the Washington action.

The first element for a finding of res judicata is that there have been a final judgment on the merits in the previous action. The First Circuit and a majority of other courts have held that "summary judgment is a final judgment on the merits to which res judicata effect can be afforded." *Lynch* v. *Board of State Exam'rs of Electricians*, 218 F. Supp. 2d 3, 7 n.8 (D. Mass. 2002) (citation omitted). In this case, the United States

District Court for the District of Washington granted summary judgment for MIT, and that judgment was affirmed by the Ninth Circuit. Therefore, under the settled precedent in this Circuit, a final judgment on the merits was reached in the earlier action, and the first element for a finding of res judicata is satisfied.

The second element that must be present for res judicata to apply is that there be sufficient identicality between the causes of action in the two actions. In determining whether the causes of action are sufficiently identical, the First Circuit uses a "transactional approach." Under this approach, the issue is "whether the causes of action arise out of a common nucleus of operative facts." *Massachusetts Sch. of Law at Andover, Inc. v. American Bar Association*, 142 F.3d 26, 38 (1st Cir. 1998). To make that determination a Court is to ask "whether the facts are related in time, space, origin or motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations." *Id.* (quoting *Aunyx Corp. v. Canon U.S.A., Inc.*, 978 F.2d 3, 6 (1st Cir. 1992), quoting in turn Restatement (Second) of Judgments § 24 (1982)).

In this case, the only factual allegation in the Massachusetts action that specifically mentions MIT in connection with any claim is that MIT allegedly licensed, and then wrongfully terminated, the so-called "Kollin patent" to Mr. Solomon and his company, Volumetric Imaging, Inc. (the second Count IV, ¶¶ 163 and 166). That factual allegation is identical to the one in the Washington action that MIT licensed, and then wrongful terminated, the so-called "VI-MIT patent" (Count V (¶ 61), which is described earlier in the Washington Complaint as the Kollin patent, licensed from MIT to Volumetric Imaging, Inc. (¶ 29)). As a result, all of the facts in the Washington and

Massachusetts actions are related in time, space, origin, and motivation, the actions would form a convenient trial unit, and MIT (at least) would expect that the claims would be brought together.

To the extent that other counts in the Massachusetts Complaint that refer generically to the "defendants" or "et al." could be also read to include MIT, and therefore to assert other theories of liability against MIT,³ the res judicata effect of the Washington action is the same. Res judicata bars "different theories of recovery, howsoever prolific, . . . if, and to the extent that, all such theories concern 'the same operative nucleus of fact." *Kale v. Combined Insurance Co. of America*, 924 F.2d 1161, 1166 (1st Cir. 1991) (quoting *Lovely v. Laliberte*, 498 F.2d 1261, 1263 (1st Cir. 1974)). As the First Circuit explained,

[i]n this way, the law prevents a litigant from claim-splitting, requiring that he "assert all his various legal theories and factually related allegations the first time he brings suit."

Id. (quoting Rose v. Town of Harwich, 778 F.2d 77, 79 (1st Cir. 1985)). See also Isaac v. Schwartz, 706 F.2d 15, 17 (1st Cir. 1983) (the fact the plaintiff "asserts new legal theories, embodied in different statutes and different common law doctrines, does not help him," and "[m]inor factual variations . . . are beside the point").

The second element for a finding of res judicata is therefore also satisfied in this case.

The third and final element of res judicata is that there is sufficient identicality between the parties in the two actions. Mr. Solomon and MIT were both named parties in

³ For the reasons stated in the second argument in this memorandum (*see* pp. 8-9, below), those counts should be dismissed for an alternative reason, because they in fact fail to plead any

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the prior Washington action and are named parties in the present Massachusetts action.⁴ Those facts satisfy the requirement that there be identicality between the parties, so that the third and final element for a finding of res judicata is satisfied in this case.

Because all three of the requirements for issue preclusion are satisfied in this case, the Court should dismiss Count III (p. 5), the first Count V (p. 11), the second Count V (p. 12), the second Count IV (p. 15), the first Count VI (p. 13), Count VIX (p. 16), the third Count VI (p. 16), and Count VII (p. 17) on the ground of res judicata.

II. ALL OF THE PLAINTIFF'S COUNTS THAT REFER GENERICALLY TO "DEFENDANTS" OR "ET AL." SHOULD ALSO BE DISMISSED AGAINST MIT BECAUSE THE PLAINTIFF FAILED TO PLEAD ANY FACTS IN THOSE COUNTS THAT RELATE SPECIFICALLY TO MIT.

General claims in pleadings must be supported by specific factual allegations. Fleming v. Lind-Waldock & Co., 922 F.2d 20, 23-24 (1st Cir. 1990). In considering a motion to dismiss, a Court may not rely on unsupported conclusions. Educadores

served in the Massachusetts action, and therefore are not parties to this motion. But if they had been served, the preclusive effect of the prior Washington judgment would have extended to them, as well. Although they were not named parties in the Washington action, there is sufficient identicality, by virtue of privity, between them and MIT. In a recent case from the United States District Court of Connecticut, that Court faced a nearly identical fact pattern. Tibbetts v. Stempel,

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No. Civ. A.3:97 CV 2561, 2005 WL 165316 (D. Conn. Jan. 20, 2005). In that case Yale University, the Yale Corporation, and certain employees and officials of the University were sued. Id. at *1. The defendants alleged that the plaintiff's claims were barred by the doctrine of res judicata. Id. at *5. The Court assessed whether there was privity between the parties in the two actions. Id. at *7. While the Yale Corporation was a defendant in both actions, the President

specific facts regarding MIT.

⁴ Dr. Vest and Ms. Nelsen, the other parties affiliated with MIT (see p. 1, above), have not been

Puertorriquenos en Accion v. Hernandez, 367 F.3d 61, 68 (1st Cir. 2004) (citing Chongris v. Board of Appeals, 811 F.2d 36, 37 (1st Cir. 1987)).

When no specific facts have been asserted against a particular defendant, the claim cannot stand. *Mooney* v. *Clerk of Courts*, 831 F. Supp. 7, 10 (D.N.H. 1993). In words that could have been written for the case before this Court, a Magistrate Judge in *Ducally v. Rhode Island Dep't of Corrections*, 160 F. Supp. 2d 220, 228-29 (D.R.I. 2001), concluded as follows:

[P]laintiff's complaint states *no* facts that would implicate Defendant Gardner. Specific factual allegations against Defendant Gardner are completely absent from the plaintiff's complaint. Accordingly, I recommend that the defendants' motion to dismiss, pursuant to Fed.R.Civ.P. 12(b)(6), should be granted as it pertains to Defendant Gardner.

Even a pro se plaintiff must set forth a factual basis for the asserted claims. See id.

This Court should therefore dismiss as against MIT all of the Counts that refer generically only to the "defendants" or "et al." (Count III (p. 5), the first Count V (p. 11), the second Count V (p. 12), the first Count VI (p. 13), Count VIX (p. 16), the third Count VI (p. 16), and Count VII (p. 17)), because none of them makes any specific allegation concerning MIT.

Conclusion

For the reasons set out in this memorandum, the Court should dismiss the plaintiff's complaint against MIT.

Respectfully submitted,

Jeffrey Swope (BBO No. 490760)

Kara A. Krolikowski (BBO

No. 658160)

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February 15, 2005

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the above document to be served upon the plaintiff by mail by causing it to be deposited with the

United States Postal Service on February 15, 2005.

UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF WASHINGTON

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Dennis J. Solomon HoloDeck Trust Plaintiffs,

6 VS.

Microvision

University of Washington

8 Joel Kollin

Thomas Furness

9 MIT

Jean Weidemier 10

Teledyne Display Technologies

William Kennedy

Brian Hart 11

Altman Stage Lighting Company

Morris Weinberg 12 Defendants.

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) Case No.: C98-0258 D

PRELIMINARY STATEMENT

The present case avers that the defendants, with a locus about defendant Joel Kollin have and are engaged in a series of interstate conspiracies to obtain the trade secrets of the plaintiff, a former MIT student and researcher. Using the unlawfully obtained information, the defendants have and are continuing to engage in a unlawful combination and conspiracy to monopolize, interfere with, and restrain interstate commerce and competition through acts of fraudulent U.S. patent and government contract procurement, interference with business relations, and intimidation, extortion, physical attacks of persons and property of the plaintiff and other unfair competitive practices.

Further, the defendants have been unjustly enriched through these unlawful activities, by fraudulently promoting and issuing interstate securities based on the fraudulently procured inventions, thereby establishing a corporate market value of in excess of \$80,000,000 and soliciting U.S. government contracts in excess of \$2,300,000.

The plaintiff, Dennis J. Solomon, a research biological microscopist at MIT beginning in 1977, independently developed a series of inventions in the field of visual imaging. In the early-mid 1980s, these inventions came to the attention of research groups including the air tactics group of Naval Air Station, Weymouth, MA and USAF Rome Labs, NY., and the holographic imaging group at the Media Lab, MIT under Stephen Benton.

In the mid 1980s, defendant Kollin became a member of Benton's Lab at MIT. Subsequently, a number of incidents occurred involving the theft, copying or removal of the plaintiff's invention papers, and the monitoring of plaintiff's business contacts.

During the past thirteen years, defendants Altman, Kollin and other persons known but unidentified by name, have engaged in a conspiracy to unlawfully monopolize scanning stage and imaging systems by using a series of schemes to obtain the plaintiff's trade secrets, and by using intimidation, extortion, and threats of personal injury to obtain the assignment of U.S. patents and impede interstate commerce and competition.

During the past ten years, defendants Kollin and Furness, using unlawfully obtained trade secrets, have fraudulently procured four U.S. patent applications which read closely on plaintiff's earlier

filed applications. At least two of the applications are invalid under the prior art and issued as a result of a clerical error by the U.S. Patent Office for failing to assign an earlier application filing date to a subsequent continuation-in-part.

From 1992 to the present, the defendants Kollin, Weidemier, Teledyne, Kennedy and Hart formed a conspiracy to interfere with a settlement license over fraudulently procured U.S. Patent '769 between the plaintiff and MIT. In 1995, the defendant Teledyne sought to gain monopolistic control over patent '769, and knowingly interfered with the business relationship between the plaintiffs and the U.S. Department of Defense by delaying and failing to provide contracted electronic components.

The defendants Kollin, Furness, University of Washington and Microvision formed a second conspiracy to engage in unlawful monopolistic practices and unlawfully enrich themselves by fraudulently procuring at least two U.S. patents '104 & '339, based on the plaintiff's inventions. The defendants used these patents as the foundation for the promotion of the registered securities of Microvision, Inc., a State of Washington corporation currently listed on the NASDAQ, and to obtain government contracts.

The aforementioned acts are violations of Section 2 of the Sherman Act (15 USCS § 2) and Section 1964 of the RICO Act (15 USCS 1964) as well as numerous US and State laws.

Prior to the institution of this complaint, the plaintiff attempted to reach a mediated settlement with Microvision and requested a notarized

statement under penalties of perjury from defendant Kollin denying the specific allegations. Both parties rejected these requests.

COMPLAINT

1. Plaintiffs, bring this civil action against defendants under Section 2 of the Sherman Act (15 USCS § 2), the RICO Act (15 USCS 1964) and other State and Federal laws, for treble damages suffered by the plaintiffs as a result of violations by the defendants of the antitrust and corrupt organization laws of the United States. Plaintiff demands a jury trial.

JURISDICTION AND VENUE

2. This Court has jurisdiction of this cause under the provisions of the Sherman and Clayton Acts, specifically under 15 USC § 1 & 2, 28 USC § 1338 and venue under 28 USC § 1400(b) and 1391(c).

PARTIES

3. The plaintiff, Dennis J. Solomon, is a resident of Yarmouth Port, Massachusetts. He received his formal education at MIT and the Woods Hole Marine Biological Laboratories in the fields of optical microscopy. In 1978 and 1979, he co-authored a number of scientific articles with Dr. Stephanie Sher, the wife of Dr. Larry Sher, inventor of BBN's SpaceView, a 3D variable focus scanning display. During the 1980s, Solomon continued to experiment and invent in the field of visual science. In 1989, Solomon founded Volumetric Imaging, Inc. During or before 1991, he began exploring joint

projects with ISCAN, a manufacturer of head-mounted, eye tracking systems.

- 4. The plaintiff, HoloDeck Trust is an unincorporated association of parties who have been granted a beneficial interest in the imaging projects of plaintiff Solomon.
- 5. The defendant, Joel S. Kollin, is believed to be a resident of Seattle, Washington. He is believed to be an employee of the HITI Laboratory of the University of Washington, and to have received and currently have a beneficial financial interest through the licensing of said patents covering virtual retinal displays to and through an equity interest in Microvision, Inc., and an assignment agreement with University of Washington.
- 6. The defendant, Thomas Furness, is believed to be a resident of Seattle, Washington, and an employee of the HITL Laboratory of the University of Washington. He is believed to have received and currently have a beneficial financial interest in the licensing of patents covering virtual retinal displays, and through the interstate securities sales of equity in Microvision, Inc., and an assignment agreement with University of Washington.
- 7. The defendant, University of Washington, hereinafter called "HITL", is believed to be a non-profit, educational institution situated in Seattle, Washington and organized under the Laws of the State of Washington. The University is believed to operate a for-profit licensing agency which distributes license fees to the University and the inventors of record.

- 8. The defendant, Microvision, Inc., hereinafter called "Microvision", is believed to be a public Washington corporation traded on the NASDAQ under the symbol MVIS, with principal offices at 2203 Airport Way South, Seattle, Washington. It is believed that defendants

 Furness and Kollin participated in the development and promotion of Microvision and received financial and other benefits from the \$5,000,000 licensing agreement of virtual retinal patents with the University of Washington.
 - 9. The defendant, Jean Weidemier, is believed to be a resident of Massachusetts and was formerly employed as an attorney by the Massachusetts Institute of Technology. Weidemier specifically negotiated and composed the specific licensing agreement for the Kollin Patent '769 between MIT and Solomon executed on April 22, 1992.

- 10. The defendant, Massachusetts Institute of Technology, hereinafter called "MIT", is a private, non-profit, educational institution incorporated under the Laws of Massachusetts with principal offices at 77 Massachusetts Avenue, Cambridge, Massachusetts. MIT was assigned the Kollin '769.
- 12. The defendant, William Kennedy, is believed to a California resident, was an employee of Teledyne, Inc., contacted and conspired

with both Teledyne Display Technologies and Brian Hart in connection with US Patent '769.

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- 13. The defendant, Brian Hart, is believed to be a California resident and to have received assistance and support from Teledyne for the development of a volumetric imager in competition with the plaintiffs. Brian Hart visited MIT in an attempt obtain a license from MIT on patent '769.
- 14. The defendant, Morris Weinberg, is believed to a resident of Cambridge and Centerville, Massachusetts and owner of America Now, a technology development company. Weinberg was the president of Fibronics International, Inc. of Hyannis until his removal in 1988.

UNLAWFUL ACTS

- 15. Beginning in 1986 and continuing up to including the date of filing of this complaint, the defendants have monopolized and attempted to monopolize the interstate trade and commerce in low inertial visual scanning systems, autostereoscopic systems and retinal imaging systems using scanning system, in violation of Section 2 of the Sherman Act (15 USCS § 2), Section 1962 of the RICO Act (18 USCS § 1962) and Section 42 of Trade Act of the Commonwealth of Massachusetts on Trade Secrets (93 MGL § 92). Such violations are continuing and will continue unless relief hereinafter requested is granted.
- 16. Pursuant to and in furtherance of the aforesaid monopolization, attempt to monopolize, and other unlawful acts and practices, defendants have engaged in a ongoing series of schemes and

conspiracies that has prevented competing inventors and 2 organizations in the field of retinal imaging systems for having an adequate opportunity effectively to compete for business and 3 government contracts, and has done, among other acts the following: 4 5 (a) During a period from at least May, 1983 and continuing to the present, persons known to or associated with Katherine Hahn, in б 7 coordination with persons connected in part to Alan B. Morse, Altman's and a MIT group associated with Kollin, engaged in a 8 9 conspiracy to obtain the trade secrets of the plaintiff included in 10 part in continuation-in-part application of U.S. Patent application 11 06/699,905, filed February 8, 1985. (b) Defendant Kollin received this and other information and used 12 said unlawfully obtained information to fraudulently procure U.S. 13 14 Patent 4,853,769, filed June 16, 1987. (c) On or about the winter of 1987-88, Altman invited plaintiff to 15 16 attend an album release party for music star Cyndi Lauper at a 17 Yonkers nightclub. The plaintiff was introduced to a well-dressed 18 advertising account associate, Michot (last name unknown), who accompanied the plaintiff to a private reception at the Altman 19 20 facility. During negotiations related to the agreement of 21 assignment of the plaintiff's patents '568 to defendant Altman, Randall Altman with affirmation from Elie Altman, suggested that 22 23 said woman was under legal age and pictures of the plaintiff leaving the facility had been taken. Plaintiff had had no contact with said woman subsequent to said reception and had no independent knowledge

of the veracity of defendants' assertion.

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- (d) On or about the spring of 1988, defendant Kollin published and publicly presented at the scientific meeting, the subject matter of autostereoscopic patent '769;
- (e) On or about the summer of 1991, the plaintiff noted unauthorized access by persons known and unknown of the plaintiff's files, mail, and computer materials at plaintiff's office at 2200 One Kendall Square;
- (f) Defendants Kollin and Furness used said unlawfully-obtained information to fraudulently procure U.S. Patent 5,467,104, filed October 22, 1992;
- (g) Defendant Teledyne, cognizant and desirous of obtaining control of Kollin AS patent '769, knowingly and deliberately delayed providing certification of performance characteristics in LED modules contracted to VI in which plaintiff had a beneficial interest and was believed to derive personal income. Defendant Hart, in conspiracy with defendant Teledyne, attempted unsuccessfully in May, 1994 to obtain a license from MIT over the patents licensed to VI. Thereafter, in furtherance of said conspiracy, defendant Teledyne knew and believed that said delay of such certification would effectively put plaintiff in financial straits and reputation with the U.S. government, jeopardize existing government contracts, and cause the plaintiff to lose its competitive advantage including but not limited to Kollin MIT patent licenses.
- (h) On or about the winter of 1994-95, the plaintiff noted unauthorized access by persons known and unknown of the plaintiff's

files, mail, and computer materials temporarily housed at 110 Sherman Ave, Chestnut Hill, MA, an apartment complex indirectly controlled by Alan B. Morse, uncle of Hahn. Defendant Weinberg, in conspiracy with Morse, and on behalf of Kollin and other defendants, had demanded a upfront payoff of \$50,000 to do business with the US-Israel Bilateral Science Grants, and when the plaintiff refused to pay upfront, did and continues to engage in a unlawful enterprise to obtain trade secrets and interfere with business relations. Among other acts, Weinberg instructed his associate, Emily Shain, to attempt to obtain the plaintiff's latest improvements of the Kollin Patent '769 and forward them to the Publicity Department of Reebok International run by Weinberg's son, Adam.

- (i) Defendant Furness used said information unlawfully obtained to fraudulently procure U.S. Patent 5,596,339, filed May 9, 1995;
- (j) Defendants Microvision, Furness, Kollin & University of Washington, cognizant of the claims of the plaintiff and the Notice of Allowance '066 (see exhibit 1) fraudulently and unfairly procured contracts with the U.S. government including but not limited to a contract for \$4,000,000 with the U.S. Army.
- 17. Section 42 of the Massachusetts General Laws, Chapter 93 (93 MGL \$ 42) states in part that: "Whoever embezzles, steals or unlawfully takes, carries away, conceals, or copies, or by fraud or by deception obtains, from any persons or corporation, with intent to convert to his own use, any trade secret, regardless of value, shall be liable in tort to such person or corporation for all damages resulting therefrom."

18. United States Letters Patent No. 4,853,769; 5,467,104; 5,569,339 are invalid and void for the reasons that the applicants did not themselves invent the subject matter sought to be patented.

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BACKGROUND FACTS

- 19. During the early winter of 1979-80, Charles Szabo, M.D., a professor at Harvard Medical School and Vivian Moss, a television producer for The Body Human, funded by the Discover arm of Robert Guccione, approached plaintiff through his lab at MIT to film for television footage using photomicrography of human biological specimens. The footage appeared in a CBS Science series. Of particular interest to Moss were methods of microscopic and endoscopic imaging.
- 20. In 1981, a M. Landsman, part of a University of Rochester-MIT-Vermont technology group, expressed an interest in developing certain 3D inventions of the plaintiff. Certain technologies of plaintiff were transferred to parties associated with Dimension Technologies, Inc and the US Air Force, Rome Labs. No direct long-term project evolved.
- 21. During the early winter of 1983-84, MIT associates of Stephen Benton, a professor of spatial imaging at MIT, invited plaintiff to a Benton lecture at the Cambridge Academy of Arts & Sciences.

 Plaintiff was seated next to Benton's wife, who engaged him in conversation concerning his activities. Following the lecture, Benton, associates and Plaintiff engaged in further conversations during which the associates repeatedly attempted to induce Plaintiff

to discuss in depth he presented work related to 3D holographic television.

- 22. In 1984, Plaintiff presented an idea for a computer-generated, holographic, stage backdrop for a music production. The backdrop proposed was a matrix panel constructed of holographic "pixels", each being a printed, computer-generated hologram. The concept was presented to a number of music groups but was considered too expensive at the time. Also in 1984 or thereafter, Plaintiff was asked to present his idea for a 3D holographic backdrop to Altman Stage Lighting Company. Certain associates of Altman's from Seattle, Washington with a direct and specific interests in Plaintiff's inventions met with Plaintiff at the Altman Yonkers, NY facility.
- 23. During 1986, Plaintiff filed a U.S. Patent C-I-P application of '905 related the integration of autostereoscopy, holography and volumetric imaging. The application disclosed that the "concepts could be applied to limited field-of-view displays".
- 24. In the late fall of 1986, Plaintiff met Katherine Hahn of New Haven, CN. Members of Hahn's family were involved in 3D virtual reality and stage lighting at Litton Fairchild in Florida and Connecticut. Alan B. Morse, Hahn's uncle, was the President of the US Trust Company of Boston, a major Somerville, MA bank, had a few years earlier opposed the US Trust's participation in the plaintiff's imaging project, and was secretly attempting to wrest control of US Trust from certain friendly acquaintances of the

plaintiff. Certain associates of Hahn were active in the imaging field in Seattle, Washington.

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- 25. During December, 1986, following a meeting with Plaintiff's 3 patent advisors, Hahn invited Plaintiff to a party in Somerville, 4 Massachusetts. In attendance were business associates in the field 5 of architecture and photography. Plaintiff fell asleep during the 6 7 party. During January, 1987, it became apparent that certain information related to Plaintiff's pending applications had been removed. Plaintiff confronted Hahn, who claimed to have no knowledge of any specific related acts.
 - 26. During 1988, Plaintiff filed an action against Hahn in Massachusetts District Court. Hahn did not deny the allegations. The court awarded Plaintiff damages and injunction against further unlawful activities by Hahn and associates.
 - 27. In 1987, Kollin, then of Somerville, Massachusetts, and connected to the laboratory of Benton at MIT filed a patent application entitled "Time-Multiplexed Autostereoscopic Display", now U.S. Patent 4,853,769. The first claim, related to the integration of volumetric imaging and autostereoscopic displays, presented a narrow case of Plaintiff's earlier filed 1986 application 06/699,905.
 - 28. On October 10, 1991, Plaintiff filed U.S. patent application no. 07/779,066 entitled "Stereo Visual Display System with Scanning Focal Adjustment" hereinafter called the "Plaintiff First Application" (see Exhibit 1).
- 29. On or about the spring of 1992, the Kollin patent, #4,853,769, filed in 1987 and publicly presented at the SID meetings in 1988,

remained unlicensed. Plaintiff inquired about obtaining an exclusive license. Plaintiff was directed to Attorney Weidemier of MIT. Ms. Weidemier attempted to delay the licensing on at least two occasions. During the summer of 1992, after negotiations related to the various claims and actions, MIT licensed the Kollin patent exclusively to Volumetric Imaging, Inc. An agreement was later reached which permitted the transfer to Dennis J. Plaintiff or another group in which he was involved.

- 30. During late 1991, Plaintiff began developing a project with ISCAN, a Massachusetts manufacturer of eye position detector systems.
- 31. On October 22, 1992, Furness and Kollin filed a US patent application for a "Virtual Retinal Display", now U.S. Patent 5,467,104, issued 11/14/95.
 - 32. Both the Plaintiff's earlier '066 (1991) and the Furness (1992) applications disclose a source of photons scanned directly onto the user's retina and a means for varying the focus of said scanned photons to control the depth perceived for each picture element from infinity to an arbitrary close distance, and constitutes prior pending art to the Furness application.
 - 33. On March 9, 1993, Plaintiff's application, US Patent Appl.
 #07/779,066, was allowed. Prior to the abandonment of US patent
 appl. 07/776,066 Plaintiff filed a continuation-in-part application
 adding new and important improvements. The claims of the prior
 application were recited. (See Exhibit 2.) Said application remains

pending under a petition for the correction of a clerical error to the Commissioner of Patents.

- 34. On May 9, 1995, Furness, Melville, Tidwell filed a US patent application '818 for a "Virtual Retinal Display with a Fiber Optic Point Source."
- 35. Plaintiff's 1991 Appl.'066 disclose a fiber optic light source for the same purpose as the Furness 1995 application '818, and constitutes prior pending art to the Furness application.
- 9 36. On November 14, 1995, the first Furness-Kollin application was allowed, now U.S. Patent 5,467,104.
- 11 37. On January 21, 1997, the second Furness application was allowed,
 12 now U.S. Patent 5,596,339.
- 38. During 1997, Plaintiff became aware of that the Furness-Kollin patents recited confidential material invented by or disclosed in Plaintiff's patent applications filed over one year prior to the first Furness patent.
 - 39. During the summer of 1997, Plaintiff sent Microvision a letter generally describing the similarities together with a copy of the Plaintiff's Patent Notice of Allowance. Plaintiff offered to disclose the full patent application under a non-disclosure agreement between the parties. Plaintiff also proffered a settlement offer which included binding arbitration or mediation.
 - 40. After a number of discussions, Microvision drafted and responded with a signed non-disclosure agreement which included the right to disclose said information to government contracting authorities and the U.S. Patent Office. See Exhibit 10.

- 41. Plaintiff responded by suggesting certain modifications which would initially only permit the disclosure to be used for the purpose of Microvision determining the validity of Plaintiff's claims.
- 42. On November 4, 1997, Microvision sent Plaintiff a letter rejecting any offer of settlement. (See Exhibit 11).

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COUNT I

Defendants Conspired to Obtain and Use Trade Secrets

- 43. Plaintiffs reallege aforementioned paragraphs above as if fully set forth herein.
- 44. From 1986 to the present, defendants Kollin, Furness, Altman, Weinberg, Kennedy, Teledyne in coordination with other persons known and unknown developed an unlawful and corrupt organization of individuals who planned and executed two or more unlawful schemes to obtain proprietary technical information and inventions of the plaintiff related to imaging systems, research details, business and research contacts and other trade secrets of the plaintiff.
- 45. Defendants Kollin and Furness unlawfully used said proprietary trade secrets and information of the plaintiff for the purpose of fraudulent procuring applications for U.S. Patents, used the US mails and interstate wires to impede and unlawfully solicit interstate business and U.S. government contracts, and filed fraudulent statements with the U.S. Patent Office and the Securities and Exchange Commission.

46. Said acts are violations of M.G.L. 93 § 42 and other State and 1 2 Federal laws. 3 4 COUNT II 5 Defendants Ongoing Conspiracy to Engage in Restraint of Trade and Unfair Competition in Interstate Commerce and Government Contracting 6 7 47. Plaintiffs reallege aforementioned paragraphs above as if fully 8 set forth herein. 48. Defendants Kollin, Furness, HITL, Microvision and others, jointly 9 and severally, had developed an ongoing corrupt organization which 10 has used unlawfully obtained trade secrets to impede interstate 11 12 commerce, and used fraudulently procured patents on the VRD inventions of the plaintiff for the purposes of soliciting 13 interstate business, U.S. government contracts and the registration 14 15 and sale of interstate securities. 49. Said acts have impeded and prevented Plaintiff from obtaining 16 17 funding, U.S. government and other contracts for the development of 18 his inventions. 50. Said acts are violations of M.G.L. 93 § 42 and 18 USC § 1962. 19 COUNT III Defendants Conspiracy to Engage in Unlawful Monopolistic Practices in Interstate Commerce Plaintiffs reallege aforementioned paragraphs above as if fully

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set forth herein.

- 52. Defendants Kollin, Furness. HITL. Microvision and others, jointly and severally, unlawfully engaged in unfair competition and monopolistic practices by using said fraudulent procured patents on the inventions of the plaintiff for the purposes of creating a monopolistic position, restraining competitive interstate business, obtaining U.S. government contracts and the registration and sale of interstate securities.
- 53. Said acts are violations of 15 USC § 2 and other state and federal laws.

COUNT VI

Defendants Conspiracy to Intimidate and Attempted Extortion

to Restrain Trade in Interstate Commerce

- 54. Plaintiffs reallege aforementioned paragraphs above as if fully set forth herein.
- 55. Defendants Altman, Kollin, Weidemier, Weinberg and others used and communicated trade secrets information to third parties and used intimidation, threats of extertion and physical violence to plaintiff's person, family and property to restrain competition and impede interstate commerce.
- 56. Defendants Altman engaged in unlawful monopolistic practices by using intimidation, threats of extortion, and physical violence to obtain the assignment of plaintiff's patents.
- 57. Defendants Altman engaged in unlawful monopolistic practices by using intimidation, threats of extortion, and physical violence to prevent the plaintiff's efforts to obtain U.S. Patents, offer said

- inventions for sale to the public, and impede the plaintiff's effort to engage in interstate competition in the field.
- 58. Said acts are violations of 15 USC § 2, 18 USC § 1962 and other state and federal laws.

COUNT V

Defendants Unlawful Monopolistic Practices and Interference with Business Relations

- 59. Plaintiffs reallege aforementioned paragraphs above as if fully set forth herein.
- 60. Defendants conspired to engage, and engaged in unlawful monopolistic practices by using a fraudulently procured patent to attempt to monopolize and to monopolize the market in time lapse autostereoscopic imaging systems.
- 61. Defendant Weidemier fraudulently asserted to MIT officers that no binding modification of VI-MIT license have been effected. Said fraudulent assertion caused MIT to unilaterally revoked said license, causing substantial damage to the plaintiffs and subsequently permitting MIT to further to engage, and engaged in unlawful monopolistic practices by using a fraudulently procured patent to attempt to monopolize and to monopolize the market in time lapse autostereoscopic imaging systems.

REQUEST FOR RELIEF

- 1. That the Court adjudge and decree that the defendants have combined and conspired to monopolize, have attempted to monopolize and have monopolized interstate trade and commerce in head mounted displays with infinite and focal adjustments, in violation of Section 2 of the Sherman Act;
- 2. That the Court adjudge and decree that the defendants have combined and conspired to fraudulently procure U.S. patents, engaged in a scheme and conspiracy to obtain trade secrets, engaged in unfair competition including but not limited to: (a) causing or attempting to delay the manufacture of the plaintiffs products for the purpose of perpetuating or gaining a competitive advantage, (b) using unlawful obtained trade secrets for the purpose of furthering the defendants' research, development and manufacturing, and the fraudulent and advantageous procurement of U.S. patents constructed to be questionably differentiable, and (c) using said unlawfully obtained trade secrets to cause the plaintiff to waste and dissipate assets;
- 3. That the Court adjudge and decree that the defendants have combined and conspired to monopolize, have attempted to monopolize and have monopolized, and attempt to interfere and have interfered with interstate trade and commerce in said imaging systems, and stage special effects, in violation of 18 USCS § 1962, by threats, intimidation, and extortion, through the fraudulent use of interstate mail and travel, through fraud in the sale of securities, through tampering and retaliating against a witness,

and be engaging in monetary transactions in property derived from specified unlawful activity;

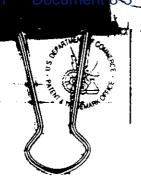
- 4. That each of the defendants, their officers, directors, agents, employees and all persons, firms or corporations acting on behalf of defendants or any one of them be perpetually enjoined from continuing to carry out, directly or indirectly, the aforesaid combination and conspiracy to monopolize, attempt to monopolize, and monopolization of the aforesaid interstate trade and commerce in imaging systems;
- 5. That the actual damages to plaintiffs' business and property proximately resulting from such violations be determined;
- 12 6. That plaintiffs have judgment against the defendants for three
 13 times the amount of actual damages so determined, together with its
 14 costs and reasonable attorneys' fees as provided by law;
 - 7. That the tradename, business, goodwill and assets of Microvision derived, enhanced or obtained as a proximate result of the fraudulent procurement of patent and other intellectual property rights, and misrepresentation in the sale of interstate securities, and government contracting be transferred to the plaintiffs;
 - 8. That the defendant Microvision be required to transfer manufacturing and other assets sufficient to insure competition in the manufacture and sale of said imaging systems;
 - 9. That this Court order the defendants, their employees, agents, and associates to immediately and permanently desist from all unlawful activities, including but not limited to acts of intimidation, and issue an immediate order prohibiting the defendants, their

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        employees, agents, and associates from contacting, or causing
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        themselves to be placed with 300' of the plaintiff or members of
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       the plaintiffs family.
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    10. That the plaintiff have such other and further relief as the nature
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       of the case may require and as the Court may deem just and proper;
 6
    11. That the plaintiff recover the costs of this action.
 7
                         PLAINTIFF DEMANDS A JURY TRIAL.
 8
    Signed and Dated this 17^{th} day of February, 1998.
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    Dennis J. Solomon, plaintiff pro se
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    PO Box 289
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    Yarmouth Port, MA 02675
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    508 394 9221
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APPENDIX EXHIBITS

- 2 1. Notice of Allowance, US Patent Application 07/779,066, filing date
- 3 10/10/91, date mailed 03/09/93, Dennis J Solomon, Inventor
- 4 2. Title Page, US Patent Application No. 08/074,398, "Stereoscopic
- 5 | Visual Display System with Scanning Focal Adjustment", filing
- 6 date 6/10/93, date mailed 06/09/93, Dennis J Solomon, Inventor
- 7 3. Foreign Filing License Granted 7/15/93, US Patent Application No.
- 8 08/074,398, "Stereoscopic Visual Display System with Scanning
- 9 Focal Adjustment", filing date 6/10/93, date mailed 06/09/93,
- 10 Dennis J Solomon, Inventor
- 11 4. USAF, Brooks AFB, Response to HMD proposals dated 04/01/94.
- 12 | 5. Beamon Patent, US No. 5,091,719, filed 12/26/89, issued 02/25/92,
- 13 Kollin AS Patent

- 14 6. Furness HMD Transparency Patent, US No. 5,162,828, filed 12/26/89,
- 15 issued 07/25/86.
- 16 7. Furness-Kollin VRD Patent, US No. 5,467,104, filed 10/22/92,
- 17 issued 11/14/95.
- 18 8. Furness FiberOptic VRD Patent, US No. 5,596,339 filed 05/09/95,
- issued 01/21/97.
- 20 9. Solomon Low Inertial Beam Direction Patent, US No. 4,777,568,
- 21 filed 11/03/86, issued 10/11/88.
- 22 | 10. Microvision to DJS, Non-Disclosure Agreement, 10/16/97
- 23 11. Microvision Letter to DJS, 11/4/97
- 24 12. Kollin Autostereoscopic U.S. Patent No. 4,853,769, filed June 16,
- 25 | 1987, issued August 1, 1989



UNITED STATES DEPARTMENT OF COMMERCE Patent and Trademark Office

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Washington, D.C. 20231

25M3

DENNIS J. SOLOMON P. O. BOX 289 YARMOUTHPORT, MA 02675

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

SERIES CODE/SERIAL NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART	CATE MAREO	
07/779,066	10/10/91	016	SUGARMAN, S	2507	03/09/93
Applicant SOLOMON		DENN	IS J		
reor A ^{rkelon} STEREO VISUAL	_ DISPLAY S ^a	YSTEM WITH	SCANNING FOCAL ADJU	ISTMENT	

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:

- 1. Review the SMALL ENTITY Status shown above.
 - If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:
 - A. If the Status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
 - B. If the Status is the same, pay the FEE DUE shown
- If the SMALL ENTITY is shown as NO:
- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.
- II. Part B of this notice should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by a charge to deposit account, Part B should be completed and returned. If you are charging the ISSUE FEE to your deposit account, Part C of this notice should also be completed and returned.
- IIf All communications regarding this application must give series code (or filing date), serial number and batch number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees.

APPLICATION FOR A UNITED STATES PATENT

Dennis J. Solomon

P.O. Box 289

Yarmouthport, Massachusetts

02675-0289

Telephone 508-394-1737

United States Citizen

STEREOSCOPIC VISUAL DISPLAY SYSTEM WITH SCANNING FOCAL ADJUSTMENT

DESCRIPTION

1. Technical Field

This invention relates to visual display and particularly stereo viewers. This application is a fuc continuation-in-part of my copending application 07/779,066.

2. Background Art

Binocular stereoviewers have a long history. Early "magic lanterns" of the turn of the century presented two separate photographs through independent optical systems. These systems functions by presenting slightly offset images of each scene to each eye. Image scanning displays also have a long history beginning in the 1920s. More recent systems based on electronic interfaces utilized miniature CRT displays, LCD panels, and optical scanning techniques such a rotating polygons. One recent system manufactured by Reflection Technologies of Waltham, MA..

PTO-103X (Rev. 7-93)

FILING RECEPT



UNITED STATES DEPARTMENT OF COMMERCE Patent and Trademark Office ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D ATTORNEY DOCKET N	O. DRWGS	TOT CL	IND CL
08/074,398			\$3 55.00		16	3

DENNIS J. SOLOMON P.O. BOX 289 YARMOUTHPORT, MA 02675

Receipt is acknowledged of this patent application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Application Processing Division's Customer Correction Branch within 10 days of receipt. Please provide a copy of the Filing Receipt with the changes noted thereon.

Applicant(s)

DENNIS J. SOLOMON, YARMOUTHPORT, MA.

FOREIGN FILING LICENSE GRANTED 07/15/93

* SMALL ENTITY *

STEREOSCOPIC VISUAL DISPLAY SYSTEM WITH SCANNING FOCAL ADJUSTMENT

PRELIMINARY CLASS: 359



DEPARTMENT OF THE AIR FORCE ARMSTRONG LABORATORY (AFMC) BROOKS AIR FORCE BASE, TEXAS

0 1 APR 1994

Belva Williams AL/XPTT 2509 Kennedy Circle Brooks AFB TX 78235-5118

Dennis J. Solomon Volumetric Imaging, Inc. 2200 One Kendall Square Cambridge, MA 02139

Dear Mr. Solomon

Your proposal, entitled "Three Dimensional Immersion HMD with Visual Accommodation," submitted to the Armstrong Laboratory under DoD Solicitation 94.1 was not selected for an award. This decision was reached on the basis of a comprehensive evaluation in accordance with the criteria set forth in the Small Business Innovation Research (SBIR) Program Solicitation and consideration of other factors, including the possible duplication with other research and development, program balance, and budget limitations. If you want a written technical debriefing, it should be requested in writing to Armstrong Laboratory/XPTT, 2509 Kennedy Circle, Brooks AFB TX 78235-5118.

No further consideration will be given to your proposal. Your interest in the Air Force SBIR Program is sincerely appreciated and we encourage your continued participation.

Sincerely

BELVA WILLIAMS

SBIR Program Manager

les Williams



United States Patent [19]

Beamon, III

[11] Patent Number:

5,091,719

[45] Date of Patent:

Feb. 25, 1992

[54]	HELMET DISPLAY		
[75]	Inventor:	William S. Beamon, III, Ormond Beach, Fla.	
[73]	Assignee:	General Electric Company, Syracuse, N.Y.	
[•]	Notice:	The portion of the term of this patent subsequent to Jan. 30, 2007 has been disclaimed.	
[21]	Appl. No.:	456,502	
[22]	Filed:	Dec. 26, 1989	
	Int. Cl. ⁵		
[58]	358/104 Field of Search		
[56]	References Cited		
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Jenkins et al., "Fundamentals of Optics", 1957, p. 6.

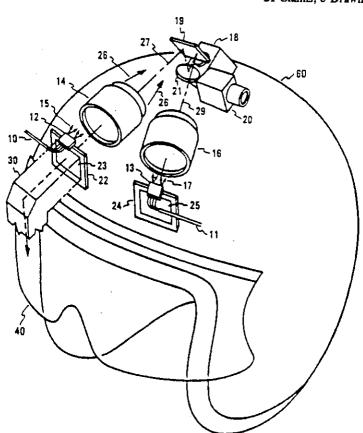
4,897,715 1/1990 Beamon, III 340/705

Primary Examiner—Jeffery A. Brier
Assistant Examiner—Regina Liang
Attorney, Agent, or Firm—Paul Checkovich; Stephen A.
Young

[57] ABSTRACT

A helmet mountable display system may display a raster scanned image to each eye of a wearer of the helmet for presenting a stereoscopic image. The system includes a first and second lens having a respective optical axis and first and second oscillatable deflecting surfaces for generating the raster. The lenses may be arranged so that the optical axes from a V with the first and second deflecting surfaces disposed substantially at the apex of the V. This arrangement may be bilaterally symmetrical such that a plurality of light rays for forming a first image passes through the first lens along one optical path, strikes the first deflecting surface, is directed onto the second deflecting surface, and is directed through the second lens toward a focal plane where a real image is available to be supplied to one eye. Another plurality of light rays for forming a second image passes through the second lens along another optical path generally opposite to the one optical path, strikes the first deflecting surface, is directed onto the second deflecting surface and is directed through the first lens toward a focal plane where another real image is available to be supplied to the other eye. The real images are raster scanned when the first and second surfaces are oscillating in a predetermined pattern. Each light ray supplies information to a corresponding zone of the image.

21 Claims, 3 Drawing Sheets



USC J2828A

United States Patent [19]

Furness et al.

[11] Patent Number:

5,162,828

[45] Date of Patent:

Nov. 10, 1992

[54] DISPLAY SYSTEM FOR A HEAD MOUNTED VIEWING TRANSPARENCY

[76] Inventors: Thomas A. Furness, 4070 Hyland Dr.,
Dayton, Ohio 45424; Robert E.
Fischer, 2060 Hillsbury, Westlake
Village, Calif. 91362; Peter K. Purdy,
4233 Phinney Ave., N., Seattle,
Wash. 98103; Kirk Beach, 2411 24th

[21] Appl. No.: 345,886

[22] Filed: May 1, 1989

Related U.S. Application Data

E., Seattle, Wash. 98112

[63] Continuation-in-part of PCT/US87/02455, Sep. 24, 1987 continuation-in-part of Ser. No. 36,826, Apr. 10, 1987, Pat No. 4,757,714, which is a continuation-in-part of Ser. No. 911,573, Sep. 25, 1986, Pat. No. 4,722,222.

[52]	U.S. Cl.	353/1	22:	351	1/1:	58:
				35	9/6	18

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IBM Tech. Disc. Bull., vol. 22, #1, Jun. 1979, projected image display-Leon-.

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Primary Examiner-Harry N. Haroian

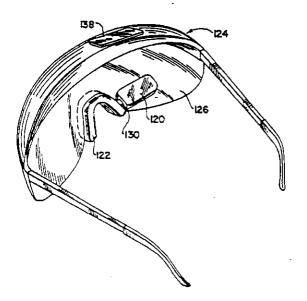
Attorney, Agent, or Firm-McAndrews, Held & Malloy, Ltd.

[57]

ABSTRACT

A display system for conventional eyewear having a transparency that defines a field of view and a frame for supporting the transparency on a user's head is shown. The display system includes a light transmissive display mounted on the frame of the eyewear and optics for collimating light to project an image of the displayed information at a distance from the user in the periphery of the field of view defined by the transparency. The optics may include a single mirror that receives the information directly from the display wherein the mirror is toroidal or the like so as to project an enlarged image at an apparent optical distance from the user that is greater than the actual optical path. Alternatively, a planar mirror may be employed with a collimating lens to project the image at a desired distance from the user. The mirror may be fully reflective or partially reflective so as to superimpose the image of the displayed information on the scene viewed by the user through the transparency of the eyewear. Further, means are provided for automatically adjusting the optical path defined by the relative position of the mirror, the display and the user's eye to accommodate heads of various sizes.

94 Claims, 10 Drawing Sheets



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Furness, III et al.

[45] Date of Patent:

Nov. 14, 1995

[54]	VIRTUAL	RETINAL DISPLAY
[75]	Inventors:	Thomas A. Furness, III; Joel S. Kollin, both of Seattle, Wash.
[73]	Assignee:	Board of Regents of the University of Washington, Scattle, Wash.
[21]	Appl. No.:	965,070
[22]	Filed:	Oct. 22, 1992
[51] [52] [58]	U.S. CL	
[56]		References Cited

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				,,,,,

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"Application of Miniature CRT Displays" by Jim E. Wurtz in Information Display Sep. 1987 pp. 16-18. CyberEdge Journal, "1200 Lines of Resolution", Jul/Aug.

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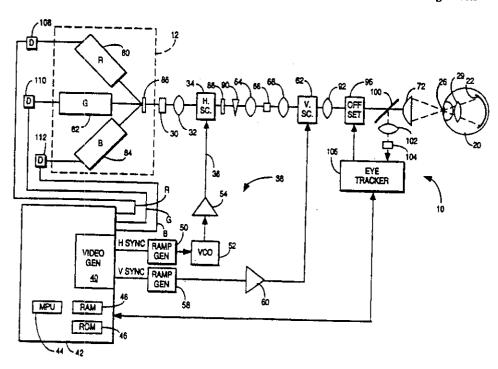
Confocal Scanning Laser Ophthalmoscope Webb et al. Applied Optics vol. 26 No. 8, Apr. 15, 1987 pp. 1492-1499.

Primary Examiner-Jeffery Brier Attorney, Agent, or Firm-McAndrews, Held & Malloy, Ltd.

[57] ABSTRACT

A virtual retinal display utilizes photon generation and manipulation to create a panoramic, high resolution, color virtual image that is projected directly onto the retina of the eye without creating a real or an aerial image that is viewed via a mirror or optics. The virtual retinal display includes a source of photons, the photons being modulated with video information and scanned in a raster type of pattern directly onto the retina of the user's eye. The photon generator may utilize coherent or non-coherent light. Further, the photon generator may utilize color light generators so as to scan a colored virtual image directly onto the retina of the user's eye. The virtual retinal display may also include a depth accommodation cue to vary the focus of scanned photons rapidly so as to control the depth perceived by a user for each individual picture element of the virtual image. Further, an eye tracking system may be utilized to sense the position of an entrance pupil of the user's eye, the detected pupil position being utilized to move the scanned photons so as to be approximately coincident with the entrance pupil of the eye. The detected pupil position may also be used to change the video image scanned onto the retina so that as the user's eye moves, the view perceived by the user changes.

11 Claims, 5 Drawing Sheets



Case 1:04-cv-12499-WGY Document 3-3 Filed 02/15/2005. Page 11 of 18

United States Parent [19]

[11] Patent Number:

5,596,339

Furness, III et al.

Date of Patent: [45]

Jan. 21, 1997

VIRTUAL RETINAL DISPLAY WITH FIBER OPTIC POINT SOURCE

[75] Inventors: Thomas A. Furness, III, Seattle;

Charles D. Melville, Issaquah; Michaei R. Tidwell, Seattle, all of Wash.

[73] Assignee: University of Washington, Seattle,

Wash.

[21] Appl. No.: 437,818

[22] Filed: May-9, 1995

Related U.S. Application Data

[63] Continual No. 5,467	ion-in-part of Ser. No. 965,070, Oct. 22, 1992, P., 104.
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[51]	Int. Cl.6	44.044.000 to 0.004.000 to 0.004.000 to 0.004.000 to 0.004.000.000 to 0.004.000.000 to 0.004.000.000 to 0.004.000 to 0.004	G09G 3/02
			G02G 2/02

[52] U.S. Cl. 345/8; 359/630

359/630; 340/980

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U.S. PATENT DOCUMENTS

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Primary Examiner—Jeffery Brier

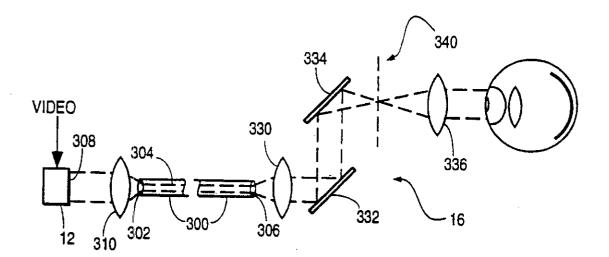
Attorney, Agent, or Firm-McAndrews, Held & Malloy, Ltd.

[57]

ABSTRACT

A virtual retinal display utilizes photon generation and manipulation to create a panoramic, high resolution, color virtual image that is projected directly onto the retina of the eye. The virtual retinal display includes a source of photons, the photons being modulated with video information and scanned by a scanning system in a raster type of pattern directly onto the retina of the user's eye. A single, monofilament optical fiber of very small diameter couples light from the photon generator to the scanning system so as to provide to the scanning system a point source of light at the fiber's exit aperture. The photon generator may utilize coherent or non-coherent light. Further, the photon generator may utilize color light emitters so as to scan a colored virtual image directly onto the retina of the user's eye.

32 Claims, 6 Drawing Sheets



United States Patent [19]

Solomon

[11] Patent Number:

4,777,568

[45] Date of Patent:

Oct. 11, 1988

[54] LOW-INERTIAL BEAM DIRECTION LIGHTING SYSTEM

[75] Inventor: Dennis Solomon, Yarmouth, Mass.

[73] Assignee: Altman Stage Lighting Co., Yonkers,

N.Y.

[21] Appl. No.: 119,396

[22] Filed: Nov. 10, 1987

Related U.S. Application Data

[63] Continuation-in-part of Ser. No. 926,632, Nov. 3, 1986, Pat. No. 4,729,071.

[56] References Cited

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1,961,116	5/1934	Van Braam Van Vloten 362/35 X
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4,104,615	8/1978	Hunter 362/35 X
4,256,364	3/1981	Minoura et al 350/6.91 X
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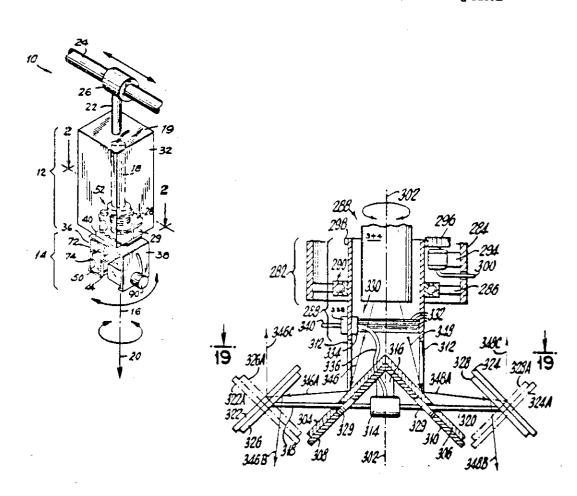
Primary Examiner-Larry Jones

Attorney, Agent, or Firm—Lackenbach, Siegel, Marzullo & Aronson

[57] ABSTRACT

The present invention provides a light display system for projecting a double-pattern light display. A luminaire holding the lamp and light control devices and projecting a primary first light beam is fixed to a first housing that in turn is nonrotatably mounted to a control bar. A second housing containing a fixed reflector apparatus adapted to receive a light beam from the luminaire is connected to and rotatable relative to the first housing about a first axis. At least two mirrors fixed to the second housing are positioned at an angle relative to the first axis and receive portions of the first light beam as second light beams. The fixed mirrors are rotatable with the second housing about the first axis. The rotatable mirrors project the second light beams to at least two rotatable mirrors each associated with a fixed mirror and the rotatable mirrors project the second light beams as third light beams about a second axis transverse to the first axis. A tilt driver attached to the second housing rotates the rotatable mirrors about the second axis. Shafts radially extend from the tilt drivers along the second axis to the rotatable mirrors for rotation and support. The light beams are thus moved simultaneously about two axes so as to cast double patterned lights on the environment.

16 Claims, 12 Drawing Sheets



United States Patent [19]

Solomon

[11] Patent Number:

Filed 02/15/2005

4,777,568

[45] Date of Patent:

Oct. 11, 1988

[54] LOW-INERTIAL BEAM DIRECTION LIGHTING SYSTEM

[75] Inventor: Dennis Solomon, Yarmouth, Mass.

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[21] Appl. No.: 119,396

[22] Filed: Nov. 10, 1987

Related U.S. Application Data

[63]	Continuation-in-part of Ser. No. 926,632, Nov. 3, 19 Par. No. 4,729,071.
()	Pat. No. 4,729,071.

[51]	Int. Cl.4	F21V :	21/30
[52]	U.S. Cl	362/35; 362	/277
	362/457; 362/458; 3	50/6.9; 350	/6.91

[56] References Cited

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3,987,296	10/1976	Coppola et al 362/277
4,104,615	8/1978	Hunter 362/35 X
4,256,364	3/1981	Minoura et al 350/6.91 X
4,353,110	10/1982	Ellis
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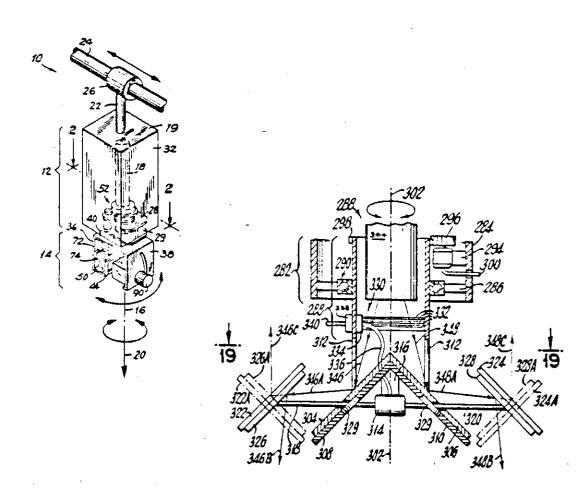
Primary Examiner-Larry Jones

Attorney. Agent or Firm—Lackenbach, Siegel, Marzullo & Aronson

[57] ABSTRACT

The present invention provides a light display system for projecting a double-pattern light display. A luminaire holding the lamp and light control devices and projecting a primary first light beam is fixed to a first housing that in turn is nonrotatably mounted to a control bar. A second housing containing a fixed reflector apparatus adapted to receive a light beam from the luminaire is connected to and rotatable relative to the first housing about a first axis. At least two mirrors fixed to the second housing are positioned at an angle relative to the first axis and receive portions of the first light beam as second light beams. The fixed mirrors are rotatable with the second housing about the first axis. The rotatable mirrors project the second light beams to at least two rotatable mirrors each associated with a fixed mirror and the rotatable mirrors project the second light beams as third light beams about a second axis transverse to the first axis. A tilt driver attached to the second housing rotates the rotatable mirrors about the second axis. Shafts radially extend from the tilt drivers along the second axis to the rotatable mirrors for rotation and support. The light beams are thus moved simultaneously about two axes so as to cast double patterned lights on the environment.

16 Claims, 12 Drawing Sheets





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Page 15 of 18





NON-DISCLOSURE AGREEMENT

WHEREAS, DENNIS J. SOLOMON (hereinafter "INDIVIDUAL") wishes to deliver to MICROVISION, INC. (hereinafter "MV"), a copy of INDIVIDUAL's patent application Serial No. 07/779,066 for MV's review (hereinafter "PROPRIETARY INFORMATION) and MV wishes to receive the PROPRIETARY INFORMATION.

NOW, THEREFORE, the parties agree as follows:

For a period of two (2) years from the date of this agreement, MV shall not disclose the PROPRIETARY INFORMATION to any other person, firm or corporation, or use the PROPRIETARY INFORMATION for its own benefit, except for the purpose of evaluating the technology or a possible cooperative relationship between INDIVIDUAL and MV. MV shall use at least the same degree of care to avoid disclosure or use of the PROPRIETARY INFORMATION as it employs with respect to its own proprietary information of like importance.

Information shall not be deemed PROPRIETARY INFORMATION and MV shall have no obligation with respect to any information which is:

- (a) Already known to the receiving party prior to receipt from the providing party and can be so shown;
- (b) Now or hereafter becomes publicly known through no wrongful act of the receiving party;
- (c) Rightfully received from a third party without similar restriction and without breach of this Agreement;



Agreement shall be binding on either party hereto, unless reduced to writing and duly executed by each of the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives effective as of the latter of the dates signed below.

MICROVISION, INC.	DENNIS J. SOLOMON
By:	By:
Name: Toda R. McIntyre	
Title: Vice President	Title:
Date: 10 17 /97	Date:





November 4, 1997

Dennis J. Solomon P.O. Box 289 Yarmouth Port, MA 92675-0289

Dear Mr. Solomon:

I have reviewed your letters of October 27, 1997 and November 3, 1997. In each of these letters you imply that you have some actionable allegations against Microvision, Inc. As best we can tell from the facts you supplied to us, any claim you may have would be against parties other than Microvision. It is Microvision's firm belief that there is no allegation grounded in fact and warranted by law which you may assert against Microvision. Accordingly, Microvision believes any such claim, if filed, would be sanctionable.

With respect to our discussions regarding possible value of any intellectual property you or your company may hold, Microvision is interested in enabled subject matter that is the subject of a currently pending patent application or issued patent. The value of such rights would, of course, derive from any extension of the patent protection held by or available to Microvision as supported by the filing date and disclosure of such patent or patent application. We have not received sufficient facts to place any reasonable value on any pending applications you may have. Moreover, given your posture that you may pursue litigation against Microvision for which we believe there is no rational basis, Microvision is not interested in receiving any information that is restricted in any way.

Microvision wishes you success in the pursuit of your 3D imaging and related patents. If you wish to provide information to Microvision on an unrestricted basis, Microvision would be willing to review it.

Sincerely.

Casey T. Tegreene

Intellectual Property Counsel

United States Patent [19]

Kollin

[56]

[11] Patent Number:

4,853,769

Date of Patent: [45]

Aug. 1, 1989

[54]	TIME MULTIPLEXED AUTO-STEREOSCOPIC THREE-DIMENSIONAL IMAGING SYSTEM

Joel S. Kollin, Somerville, Mass. [75] Inventor:

[73] Assignee: Massachusetts Institute of Technology, Cambridge, Mass.

[21] Appl. No.: 62,904

[22] Filed: Jun. 16, 1987

[51] [Int. CL4 H04N 13/00 [52] U.S. CL ... 358/88; 358/90; 350/132; 350/143; 350/3.66 [58] Field of Search 358/88, 89, 90, 91, 358/92, 3, 903; 364/521, 522; 350/130-143, 3.6,

3.66, 3.82; 354/112, 114; 352/57-63; 367/8, 11, 13; 73/603, 606, 610, 609

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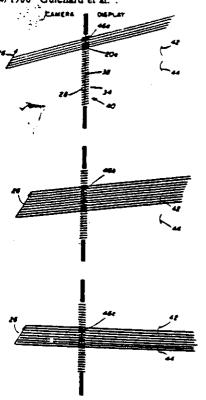
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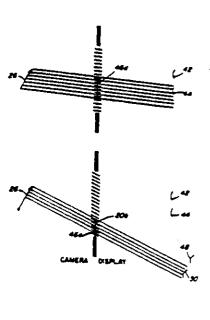
Primary Examiner—Howard W. Britton Assistant Examiner-Victor R. Kostak Attorney, Agent. or Firm-Hamilton, Brook, Smith & Reynolds

[57] ABSTRACT

Light reflected from a three-dimensional scene is sequentially scanned according to its direction as it passes through a window. At any given time only light traveling in one direction can pass through the window to be recorded. These sequentially recorded collimated views can be recorded, altered, transmitted, and displayed as desired. The views are displayed through a synchronized directional scanner which sequentially displays the views through respective angles, providing a scene with parallax as well as depth. The directional scanner may be a louver structure or a device for steering a collimated display.

53 Claims, 6 Drawing Sheets





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UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE

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DENNIS J. SOLOMON,

Plaintiff,

CASE NO. C98-258L

REPORT AND RECOMMENDATION

v.

UNIVERSITY OF WASHINGTON, et al.,

Defendants.

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11 HI. INTRODUCTION

This matter comes before the Court on Massachusetts 13 |Institute of Technology's ("MIT") motion for summary judgment, 14 Defendant Weinberg's motion for summary judgment, and the motion 15 for summary judgment of Defendants University of Washington, 16 |Joel Kollin and Thomas Furness, pursuant to Federal Rule of 17 Civil Procedure 56. (Docs. #103, #124, #129).

On August 19, 1999, Defendants University of Washington, 19 || Joel Kollin and Thomas Furness filed their motion for summary [judgment. (Doc. #103). On September 10, 1999, Plaintiff filed 21 a response in opposition to the motion for summary judgment 22 ||filed by Defendants University of Washington, Joel Kollin and 23 |Thomas Furness. (Doc. #109). On September 14, 1999, 24 Defendants University of Washington, Joel Kollin and Thomas 25 Furness filed a reply in support of their motion for summary 26 ∥judgment. (Doc. #110).

On November 24, 1999, Defendant MIT filed a motion for summary judgment. (Doc. #124). On December 13, 1999, Plaintiff

REPORT AND RECOMMENDATION - 1 c:\data\6779cg

1 Ifiled a response in opposition to Defendant MIT's motion for 2 summary judgment. (Doc. #135). On December 30, 1999, Defendant 3 MIT filed a reply in support of its motion for summary judgment. 4 (Doc. #140).

On December 9, 1999, Defendants Weinberg filed a motion for 6 summary judgment. (Doc. #130). On December 27, 1999, Plaintiff 7 filed a reply in opposition to Defendant Weinberg's motion for 8 summary judgment. (Doc. #148). On December 30, 1999, Defendant 9 Weinberg filed a reply in support of his motion for summary 10 | judgment. (Doc. #142).

The Court, having reviewed the motions for summary 12 judgment, all papers in support and in opposition, and the 13 remaining record, recommends that motions for summary judgment 14 of Defendants University of Washington, Kollin, Furness, 15 Weinberg and MIT be GRANTED, that supplemental jurisdiction over 16 Plaintiff's state law claims be DECLINED, that Plaintiff's 17 claims against Defendants Teledyne Imaging Technologies, 18 Weidemier, Kennedy and Hart be DISMISSED and that this action be 19 DISMISSED with prejudice.

20 II. BACKGROUND

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On March 2, 1998, Plaintiff filed this action against 22 |eleven defendants.1 (Doc. #1). On January 13, 1998, the Court

^{&#}x27; The only remaining parties to this action are University of Washington, Kollin, Furness, Weinberg, MIT, Teledyne Imaging Technologies, Weidemier, Kennedy and Hart. Holodeck Trust, 26 Altman Stage Lighting and Microvision are no longer parties to this action. On September 2, 1998, the Court granted Defendant 27 Altman Stage Lighting's motion to dismiss. (Doc. #41). Holodeck Trust was originally a plaintiff in this action but was dismissed by Order of this Court on March 1, 1999. (Doc. #67).

REPORT AND RECOMMENDATION - 2 c:\data\6779cg

granted Plaintiff's motion to supplement his complaint and accepted Plaintiff's supplemental complaint for filing which alleges a list of ten new factual allegations that supplement Plaintiff's claims in his complaint. (Doc. #57). In his complaint, Plaintiff, a Massachusetts resident, alleges generally that Defendants violated federal laws and Massachusetts state law by using, patenting, and licensing Plaintiff's "display imaging" propriety information without his permission.

Plaintiff asserts five claims for relief under both federal and Massachusetts state law which he organizes under "Counts I-V" in his complaint. Under Count I, he argues that Defendants Kollin, Furness, Weinberg, Teledyne Imaging Technologies ("TIT") and others conspired to obtain and use trade secrets in violation of Massachusetts General Law ("M.G.L.") "93 § 42 and other State and Federal laws." (Doc. #1 at 17). Specifically, Plaintiff argues that such Defendants "planned and executed two or more unlawful schemes to obtain proprietary technical information and inventions of the plaintiff." (Id. at 16).
Further, he asserts that the Defendants Kollin and Furness "used said proprietary trade secrets and information of the plaintiff for the purpose of fraudulent [sic] procuring applications for U.S. Patents, used the U.S. mails and interstate fraud to impede

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On March 2, 1999, Defendant Microvision's motion for summary judgment was granted. (Doc. #68).

The Court will hereinafter refer to Plaintiff's initial compliant and his supplemental complaint together as Plaintiff's "complaint" in this action.

REPORT AND RECOMMENDATION - 3
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1 and unlawfully solicit interstate business and U.S. government
2 contracts and filed fraudulent statements with the U.S. Patent
3 Office and the Securities Exchange Commission."
                                                      (<u>Id.</u>).
4 However, Plaintiff does not specifically allege any facts that
  support a claim against Defendants University of Washington or
6 MIT under Count I.
                       (Id.).
7
        Under Count II, Plaintiff asserts that Defendants violated
8 M.G.L. 93 § 42 and 18 U.S.C. § 1962 of the Racketeer Influenced
  and Corrupt Organization Act ("RICO"). He argues that
10 Defendants Kollin, Furness, University of Washington and others
  "developed an ongoing corrupt organization which has used
11
12 unlawfully obtained trade secrets to impede interstate commerce,
13 and used fraudulently procured patents on the VRD inventions of
14 the plaintiff for the purposes of soliciting interstate
15 business, U.S. government contracts and the registration and
16 sale of interstate securities." (Id. at 17). Essentially,
17 under Count II, Plaintiff reasserts his claim that Defendants'
18 Mactions violated M.G.L. 93 § 42 by misappropriating Plaintiff's
19 trade secrets and further argues that Defendants violated 18
20 U.S.C. § 1962 of RICO. However, Plaintiff does not specifically
21 allege any claim against Defendants Weinberg or MIT under Count
22 ||II. (<u>Id.</u>).
23
        In Count III, Plaintiff claims that Defendants Kollin,
24 Furness, University of Washington and others violated 15 U.S.C.
25 S 2 of the Sherman Antitrust Act and "other state and federal
26 laws." (Id. at 18). Essentially, Plaintiff argues that
27 Defendants engaged in unlawful monopolistic practices in
28 interstate commerce. Plaintiff asserts that Defendants
  REPORT AND RECOMMENDATION - 4
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1 ["unlawfully engaged in unfair competition and monopolistic 2 practices by using said fraudulent [sic] procured patents on the 3 linventions of the plaintiff for the purposes of creating a 4 monopolistic position, restraining competitive interstate 5 business, obtaining U.S. government contracts and the 6 registration and sale of interstate securities." (Id.). 7 However, Plaintiff does not specifically allege any facts that 8 support a claim against Defendants Weinberg or MIT under Count 9 III. (<u>Id.</u>). In Count IV, Plaintiff again alleges violations of 15 10 11 U.S.C. S 2 of the Sherman Antitrust Act, 18 U.S.C. S 1962 of 12 RICO, and "other state and federal laws." (Id. at 19). It 13 appears to the Court that Plaintiff in Count IV alleges the same 14 claims that he alleges in Count II and Count III of his 15 complaint concerning violations of the Sherman Antitrust Act and 16 RICO. Plaintiff asserts that Defendants Kollin, Weinberg and 17 others "used and communicated trade secret information to third 18 parties and used intimidation, threats of extortion and physical 19 |violence to plaintiff's person, family and property to restrain 20 competition and impeded interstate commerce." (Id. at 18), 21 However, Plaintiff does not specifically allege any facts that 22 support a claim against Defendants University of Washington. 23 Furness or MIT in Count IV. (Id.). 24 Under Count V, Plaintiff does not specifically assert that 25 Defendants have violated any laws. Instead, Plaintiff titles 26 Count V as "Defendants Unlawful Monopolistic Practices and 27 Interference with Business Relations." (Id. at 19). While it 28 appears that Plaintiff is asserting that Defendants violated the REPORT AND RECOMMENDATION - 5

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Sherman Antitrust Act, 15 U.S.C. § 2, as he previously alleges in Count III and Count IV of his complaint, any other basis for Plaintiff's claims is unclear to the Court. In addition, this is the only Count in which Plaintiff alleges a claim against Defendant MIT. He alleges that Defendant MIT "engaged in unlawful monopolistic practices by using a fraudulently procured patent to attempt to monopolize and to monopolize the market in the time lapse autostereoscopic imaging systems." (Id. at 19). Plaintiff does not specifically allege that Defendants University of Washington, Kollin, Furness or Weinberg participated in the violations that Plaintiff alleges under Count V.

13 III. DISCUSSION

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A. Summary Judgment Standard

Defendants have moved for summary judgment pursuant to
Federal Rule of Civil Procedure 56. "One of the primary
purposes of the summary judgment rule is to isolate and dispose
of factually unsupported claims or defenses." See Celotex v.
Catrett, 477 U.S. 317, 323-24 (1986). Summary judgment is
appropriate if there is no genuine issue of material fact and
the moving party is entitled to judgment as a matter of law.
See Swayze v. United States, 785 F.2d 715, 717 (9th Cir. 1986)
(citing Fed. R. Civ. P. 56(c)). The standard provided by Rule
for requires not only that there be some alleged factual disputes
between the parties, but also that there be genuine issues of
material fact. See Anderson v. Liberty Lobby, Inc., 477 U.S.
242, 247-48 (1986). "The summary judgment inquiry thus
scrutinizes the plaintiff's case to determine whether the

REPORT AND RECOMMENDATION - 6 c:\data\6779cg

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1 plaintiff has proffered sufficient proof, in the form of
2 admissible evidence, that could carry the burden of proof of
3 [the] . . . claim at trial." See Mitchell v. Data General
  Corp., 12 F.3d 1310, 1315 (4th Cir. 1993).
        To meet the initial burden under Rule 56, "the party
5
6 seeking summary judgment always bears the initial responsibility
7 of informing the district court of the basis for its motion, and
8 dentifying those portions of 'the pleadings, depositions,
9 answers to interrogatories, and admissions on file, together
10 with affidavits, if any, which it believes demonstrate the
Il absence of a genuine issue of material fact." Celotex, 477 U.S.
12 at 324. If the movant meets this burden, then summary judgment
13 will be granted unless there is significant probative evidence
14 tending to support the opponent's legal theory. See First Nat'l
15 Bank v. Cities Serv. Co., 391 U.S. 253, 290 (1968). In opposing
16 a motion for summary judgment, the nonmovant cannot simply rely
17 on allegations or unsupported assertions. See Rule 56(e).
18 |Instead, the nonmovant must set out specific facts in
19 declarations, depositions, answers to interrogatories, or
20 authenticated documents, as provided in Rule 56(e), that
21 contradict the facts shown in the moving party's declarations
22 and documents and show that there is a genuine issue of material
23 fact for trial. See id. If the nonmovant does not submit
24 evidence in opposition, summary judgment, if appropriate, may be
25 entered against the nonmovant. See id.
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   REPORT AND RECOMMENDATION - 7
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Pederal Rule of Civil Procedure 8(a) and Plaintiff's В. claim against Defendant MIT

Federal Rule of Civil Procedure 8(a)(2) requires that a complaint contain a "short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. Pro. 8. Here, several portions of Plaintiff's complaint fail to 7 satisfy that standard. Though Plaintiff's claims appear to arise out of the alleged fraudulent procurement of Plaintiff's 9 ideas, the complaint lists violations of M.G.L. 92 § 42, 18 10 U.S.C. § 1962, and 15 U.S.C. § 2 as well as "other state and Il federal laws."

Plaintiff's complaint fails to allege a short plain 13 statement of a claim in two areas. First, under Counts I-IV of 14 his complaint, Plaintiff asserts that Defendants' actions 15 violate "other state and federal laws." (Doc. #1 at 16-19). On 16 lits face, this assertion does not meet the requirements of a 17 plain statement of a claim showing that the pleader is entitled 18 to relief. See Rule 8. Specifically, by simply stating 19 Defendants' actions violate "other state and federal laws," the 20 pleading fails to associate any specific legal claim with any 21 factual allegations.

Furthermore, under Count V of the complaint, Plaintiff 23 makes unintelligible factual allegations that "defendants 24 conspired to engage, and engaged in unlawful monopolistic 25 practices by using a fraudulently procured patent attempt to 26 monopolize and to monopolize the market in time lapse 27 |autostereoscopic imaging systems." (Doc. #1 at 19). Moreover, 28 Plaintiff alleges that Defendant MIT "engaged in unlawful

REPORT AND RECOMMENDATION - 8 c:\data\6779cg

1 monopolistic practices by using a fraudulently procured patent 2 to attempt to monopolize and to monopolize the market in the 3 time lapse autostereoscopic imaging systems." Id. However, 4 under Count V, Plaintiff does not allege that Defendants 5 violated any specific federal or state laws. Because 6 Plaintiff's arguments appear to be the same or similar to his 7 arguments under Count III and Count IV, that Defendants' 8 monopolistic actions violate 15 U.S.C. § 2 of the Sherman Act, 9 the Court will review herein whether there is a genuine issue of 10 material fact as to Plaintiff's Sherman Act claims. Other than 11 his possible antitrust claim, Plaintiff's complaint under Count 12 V fails to associate any federal legal claims with any specific 13 factual allegations. In the face of these infirmities, the 14 Court declines to consider Plaintiff's unintelligible assertions 15 for failure to comply with Rule 8(a)(2).3 16 The Court previously pointed out these infirmities in

recommending that Defendant Microvision's motion for summary judgment be granted on January 5, 1999. (Doc. #56). As previously stated, the District Court adopted this Court's report and recommendations dated January 5, 1998 and January 14, 1998 and granted Defendant Microvision's motion for summary judgment in an Order dated March 2, 1999. (Doc. #68). In light of the foregoing, the Court recommends that the foregoing intelligible assertions against Defendants be dismissed for failure to comply with Rule 8(a)(2).

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If Plaintiff intends to raise a state law claim in Count V, the Court recommends that supplemental jurisdiction be declined as discussed herein. (<u>Infra</u>, at page 317-18).

Federal Claims Ċ.

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COUNTS II and IV: Racketeer Influenced and 1. . Corrupt Organization Act, 18 U.S.C. § 1962

Under Counts II and IV, Plaintiff claims that Defendants Kollin, Furness, University of Washington, Weinberg and others Violated 18 U.S.C. § 1962 of RICO. Specifically, under Count III, Plaintiff argues that Defendants Kollin, Furness, University of Washington and others formed an "ongoing organization" to Mobtain Plaintiff's trade secrets and to use "fraudulent (sic) 10 procured patents" to solicit business in interstate commerce. **∥**{Doc. #1 at 17}. As previously stated, Plaintiff does not 12 specifically allege that Defendants Weinberg or MIT participated in the violations Plaintiff alleges under Count II. (Id.).

Under Count IV, Plaintiff claims that Defendants Kollin, 15 Weinberg and others used Plaintiff's trade secrets to intimidate, extort and cause physical violence to Plaintiff and his family. (Id. at 18). However, Plaintiff does not specifically allege that Defendants University of Washington, Furness or MIT participated in the violations Plaintiff alleges under Count IV. (Id.).

The Racketeer Influenced and Corrupt Organizations Act 22 | (RICO), 18 U.S.C. §§ 1961-1968, provides a private civil action to recover treble damages for injury "by reason of a violation 24 of" its substantive provisions. See 18 U.S.C. § 1964(c). prevail on a civil RICO theory, a Plaintiff must establish: (1) 26 a "pattern of racketeering activity," including at least two 27 ["predicate acts," (2) a criminal enterprise in which defendants 28 participated, and (3) a causal relationship between the

REPORT AND RECOMMENDATION - 10 cr\data\6779eg

I predicate acts and the harm suffered. See Sedima, S.P.R.L. Imrex Co., Inc., 473 U.S. 479, 496-97 (1985); 18 U.S.C. \$\$ 1961-168.

To state a claim under RICO, Plaintiff must first demonstrate that the defendants engaged in at least two acts of 6 "racketeering activity," as that term is defined in 18 U.S.C. § 7 1961(1). See Sun Sav. & Loan Ass'n v. Dierdorff, 825 F.2d 187, 8 191 (9th Cir. 1987). Plaintiff has not established a genuine 9 lissue of material fact as to establish a pattern of racketeering 10 activity in either Count II or Count IV because he has failed to Il establish a genuine issue of material fact as to at least two 12 predicate acts, a necessary element of the prima facie case 13 under RICO. Because Plaintiff has not met his burden on summary 14 judgment to establish a pattern of racketeering activity for 15 either Count II or Count IV, the Court need not address the 16 other elements of the prima facie case under RICO.

a. Count II

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In Count II, Plaintiff's complaint alleges that Defendants 19 Kollin, Furness and University of Washington violated RICO by 20 seeking interstate business, soliciting government contracts, 21 and registering and selling interstate securities. 4 However, 22 these acts do not constitute predicate acts of racketeering, 23 pursuant to \$ 1961(1). See \$ 1961(1). In opposition to their 24 motion for summary judgment, Plaintiff apparently argues that he

Although fraud in the sale of securities is considered a 26 predicate criminal act under \$ 1961(1)(D), Plaintiff is 27 disallowed from alleging fraud in the sale of securities as a predicate act in a private cause of action under \$ 1964 (c). <u>See</u> 18 U.S.C. § 1964 (c).

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1 can establish a pattern of racketeering activity because
2 MDefendant Kollin committed grand larceny at least three times
3 by the theft of the plaintiff's trade secrets whose value has
4 | been proved to be in excess of $15,000,000." (Doc. # 109 at 5).
5 Also, Plaintiff alleges new facts supporting two other predicate
6 activities of the use of the United States mails and wires to
7 transmit stolen property and to commit actual fraud before the
8 United States Patent Office by Defendants. (Id.). However,
9 even with the new allegations offered in his response and
10 assuming such acts constituted predicate acts under RICO,
11 Plaintiff has failed to support his allegations of a pattern of
12 racketeering activity "with proof in the form of admissible
13 evidence that could carry the burden of proof of [the] . . .
14 claim at trial." Mitchell, 12 F.3d at 1315. As a party
15 opposing summary judgment, Plaintiff must respond with more than
16 conclusory allegations or speculative statements. See Nat'l
17 Steel Corp v. Golden Eagle Ins. Co., 121 F.3d 496, 502 (9th Cir.
18 1997). Plaintiff is required at the summary judgment stage to
19 produce evidence of a genuine issue of material fact. He has
20 | failed to show any evidence supporting any of his allegations
21 against Defendants Kollin, Furness or the University of
22 Washington in Count II. See Celotex, 477 U.S. at 322-23.
        Furthermore, Plaintiff's claim in Count II fails to state a
23
24 claim under RICO against Defendants MIT and Weinberg.
25 |Specifically, as to Defendants MIT and Weinberg, Plaintiff's
26 claims fail under Count II because Plaintiff does not allege any
27 specific facts to support a claim against such defendants.
28 Accordingly, Plaintiff has failed to show that a genuine issue
  REPORT AND RECOMMENDATION - 12
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1 of material fact exists in Count II and, therefore, Defendants 2 ware entitled to summary judgment as a matter of law on his RICO 3 claims.

Count IV Ъ.

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In Count IV, Plaintiff alleges that Defendants Kollin and 5 6 Weinberg and others "communicated trade secret information to 7 third parties, used intimidation, threats of extortion and 8 physical violence to Plaintiff's person family and property to 9 retrain competition and impede interstate commerce." (Doc. #1 10 at 18). Moreover, in response to Defendant Weinberg's motion 11 for summary judgment, Plaintiff alleges that Defendant 12 Weinburg's "fraudulent procurement of a patent is a basis for 13 claims of damages under the . . . civil provisions of the RICO 14 Act (18 U.S.C. § 1962)." (Doc. #135 at 4). In response to 15 Defendant Kollin's motion for summary judgment, Plaintiff 16 appears to allege predicate acts of grand larceny. Finally, 17 | Plaintiff alleges that both Defendants Kollin and Weinberg 18 committed other predicate acts of using the United States mails 19 and wires to transmit stolen property and using the United 20 (States mails and wires to commit actual fraud before the United 21 States Patent Office. (Doc. #109 at 5-8; Doc. #148 at 4).

Again, Plaintiff has failed to meet his burden on summary 23 judgment to present any proof in the form of admissible evidence 24 to support his allegations that Defendant Weinberg fraudulently 25 procured a U.S. Patent or that Defendant Kollin committed 26 | larceny, or that either Defendant committed fraud or used the 27 United States mails and wires to transmit stolen property. Even 28 Massuming such acts constitute predicate acts within the meaning

1 of RICO, Plaintiff has failed to meet his burden on summary 2 judgment in establishing a genuine issue of material fact as to 3 a pattern of racketeering activity, which is a necessary element 4 of a prima facie case under RICO. Plaintiff has not come 5 forward with affidavits or other discovery materials indicating 6 that there exists a genuine issue for trial. See Rule 56(e). 7 Plaintiff's claims are wholly unsupported, conclusory and 8 speculative allegations and should be dismissed. See Nat'l Steel Corp., 121 F.3d at 502.

Moreover, Plaintiff's claim in Count IV fails to state a 11 |claim under RICO as to Defendants University of Washington, 12 Furness and MIT. Specifically, as to Defendants University of 13 Washington, Furness and MIT, Plaintiff's claims fail under Count 14 IV because he does not allege any specific facts to support a 15 claim against such Defendants in Count IV.

Accordingly, Plaintiff has failed to show that genuine 17 lissues of material fact exists in Count II or Count IV and, 18 therefore, Defendants are entitled to summary judgment as a 19 matter of law as to his RICO claims.

> COUNTS III, IV and V: The Sherman Antitrust Act. 2. 15 U.S.C. § 2

In Counts III, IV and V, Plaintiff claims that Defendants 23 Kollin, Furness, University of Washington, MIT, and Weinberg 24 violated 15 U.S.C. § 2 by engaging in unfair competition and 25 monopolistic practices. (Doc. #1 at 17-19). Section 2 of the 26 |Sherman Act makes it an offense for any person to "monopolize, 27 or attempt to monopolize, or combine or conspire ... to 28 monopolize any part of the trade or commerce among the several

REPORT AND RECOMMENDATION - 14 c:\data\6779ce

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1 States." See 15 U.S.C. § 2 (1998). To prevail on a Section 2 2 attempted monopolization claim, Plaintiff must establish: "(1) 3 a specific intent to control prices or destroy competition; (2) 4 predatory or anticompetitive conduct directed at accomplishing 5 that purpose; (3) a dangerous probability of achieving 'monopoly 6 power, and (4) causal antitrust injury." Rebel Oil Co., Inc. 7 v. Atlantic Richfield, Co., 51 F.3d 1421, 1434 (9th Cir. 1995) 8 (quoting McGlinchy v. Shell Chem. Co., 845 F.2d 802, 811 (9th 9 Cir. 1988). The requirements of a Section 2 monopolization 10 claim and an attempted monopolization claim are similar, and 11 differ primarily in the requisite intent and the necessary level 12 of monopoly power. See California Computer Products, Inc. v. 13 Int'l Bus. Machines Corp., 613 F.2d 727, 736-37 (9th Cir. 1979). 14 To prevail on a Section 2 monopoly claim, the Plaintiff is 15 required to prove that Defendants: (1) possessed monopoly power 16 in the relevant market and (2) willfully acquired or maintained 17 that power. See id. Furthermore, under both causes of action, 18 Plaintiff must also establish antitrust injury. See Cost 19 Management Services, Inc. v. Washington Natural Gas Co., 99 F.3d 20 | 937, 949-50 (9th Cir. 1996). 21 Plaintiff has failed to allege specific facts to support 22 his claims of monopolization or attempted monopolization. See 23 Rule 56(e). Plaintiff's assertions that all of the Defendants 24 have monopolized or attempted to monopolize the market are 25 conclusory and unfounded. In Counts III, IV and V, Plaintiff 26 has failed to establish a genuine issue of material fact that 27 Defendants have any monopoly power or any probability of 28 establishing monopoly power, a necessary element of Plaintiff's REPORT AND RECOMMENDATION - 15 c:\data\6779cg

1 claims under the Sherman Antitrust Act. See Rebel Oil, 51 F.3d 2 at 1434; California Computer Products, 613 F.2d at 727. 3 preparing his response, Rule 56 requires that Plaintiff submit 4 affidavits or other admissible evidence in opposition to a 5 motion for summary judgment. Plaintiff offers no evidence of 6 any power to monopolize, or probability of establishing monopoly 7 power, or affidavits, declarations or otherwise in his response 8 to Defendants' motions for summary judgment. See Celotex, 477 9 U.S. at 324. While he attaches exhibits to his responses to 10 Defendants' motions for summary judgment, none of the exhibits 11 support his claims against such Defendants under the Sherman 12 Antitrust Act. (Doc. #109, attached exhibits; Doc. #135; 13 attached exhibits; Doc. #148, attached exhibits). Plaintiff's 14 responses to the Defendants' motions for summary judgment are 15 wholly conclusory on his Sherman Act claims and thus inadequate 16 to meet his burden under Rule 56. Because Plaintiff has failed 17 to establish a genuine issue of material fact as to the issue of 18 monopoly power or any probability of establishing monopoly power 19 under the Sherman Act, the Court need not address the other 20 elements of his prima facie case.

Moreover, in opposition to Defendant MIT's motion for summary judgment, Plaintiff appears to assert new claims against Defendant MIT for conspiracy to commit an offense in violation of 18 U.S.C. § 371, numerous violations of the RICO Act under 18 U.S.C. § 1961, false claims against the United States government, fraud in violation of 18 U.S.C. § 1341, interference with business relations, interference with prospective business relations, and conspiracy to unlawfully obtain trade secrets in

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1 |violation of 18 U.S.C. § 1831 & 1832. (Doc. #148 at 4).
2 Plaintiff's additional claims against Defendant MIT must fail
3 for two reasons. First, Plaintiff has neglected to allege such
4 claims against Defendant MIT in his complaint, and therefore,
  they are not within the scope of this litigation. (Doc. #1).
6 Even if Plaintiff had alleged such claims in his complaint,
7 Plaintiff's numerous allegations against Defendant MIT, must
8 fail because he does not support any of his allegations with a
9 declaration or any other admissible evidence to establish a
10 genuine issue of material fact. As Judge Lasnik previously
Il pointed out to Plaintiff in his order granting Defendant's
12 Microvision's motion for summary judgment, (Doc. #68),
13 | Plaintiff's burden on summary judgment is "to proffer sufficient
14 facts to show that the evidence sought exists, and that it would
15 prevent summary judgment." Nidds v. Schindler Elevator Corp.
16 113 F.3d 912, 921 (9th Cir. 1996). Plaintiff may not rest on
17 mere allegations in responding to a motion for summary judgment.
18 <u>See</u> Rule 56(e). Defendants are entitled to summary judgment as
  a matter of law as to Plaintiff's claims that Defendants
20 | violated 15 U.S.C. § 2.
        D. Supplemental Jurisdiction over State Law Claims
21
22
        Pursuant to 28 U.S.C. § 1367(a), the Court has the power to
23 exercise supplemental jurisdiction over state claims which arise
24 out of the same case or controversy as the federal claims over
25 which it has original jurisdiction alleged in the complaint.
26 <u>See</u> 28 U.S.C. § 1367(a) (1998). However, purusant to §
27 | 1367(c)(3) "district courts may decline to exercise supplemental
28 jurisdiction over a claim under subsection (a) if . . . the
  REPORT AND RECOMMENDATION - 17
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l district court has dismissed all claims over which it has 2 original jurisdiction." Id.

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In light of the foregoing recommendation that Plaintiff's 4 | federal law claims be dismissed, supplemental jurisdiction is not warranted under the circumstances. Because Plaintiff has 6 failed to show a genuine issue of material fact as to his 7 | federal law claims, the Court recommends that supplemental fjurisdiction over Plaintiff's state law claims alleged in is complaint, including his claims under Count I, be declined 10 pursuant to § 1367(c).

E. Plaintiff's Claims Against Defendant Teledyne Display Technologies

Plaintiff's sole claim against Defendant TIT should be 14 dismissed. Plaintiff asserts a state law claim against 15 Defendant TIT in Count I. Moreover, Plaintiff does not allege 16 any specific claims in Counts II-V to support a federal claim 17 for relief against Defendant TIT. The Court notes that Lane 18 Powell Spears Lubersky, L.L.P. filed a notice of appearance on 19 behalf of Defendant TIT on June 11, 1998. (Doc. #7). While 20 Defendant TIT has not filed an answer, a motion to dismiss, or a 21 motion for summary judgment in this action, Plaintiff's claim 22 against Defendant TIT should be dismissed because his claim is 23 |solely based on state law. As the Court previously discussed. 24 supplemental jurisdiction over Plaintiff's state law claims 25 should be declined because Plaintiff's federal claims are wholly 26 speculative, conclusory and without a basis in fact. Because 27 the Court recommends that supplemental jurisdiction over the 28 state law claims be denied, Defendant TIT should be dismissed

from this action.

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Remaining Defendants F.

It does not appear on the record that Defendants Jean Weidemier, William Kennedy, or Brian Hart have ever been properly served with the complaint in this action. Plaintiff has never informed the Court on what steps he has taken to serve the complaint on such Defendants, as is his responsibility. No waiver of service, appearance by an attorney or answer to the complaint has been filed by any of those defendants. Since they 10 never received service, Jean Weidemier, William Kennedy, or 11 Brian Hart have never been parties to this action. Because 12 there are no more defendants remaining, this action should be 13 dismissed with prejudice.

14 IV. CONCLUSION

In light of the foregoing, the Court, recommends that 16 motions for summary judgment of Defendants University of 17 Washington, Kollin, Furness, Weinberg and MIT be GRANTED, that 18 [supplemental jurisdiction over Plaintiff's state law claims be |DECLINED, that Plaintiff's claims against Defendants TIT, 20 Weidemier, Kennedy and Hart be DISMISSED, and that this action be DISMISSED with prejudice.

DATED this 22 day of February, 2000.

DAVID E.

United States Magistrate Judge

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H.							
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3	UNITED STATES DISTRICT COURT						
4	WESTERN DISTRICT OF WASHINGTON AT SEATTLE						
5	DENNIS J. SOLOMON,						
6		Plaintiff,	{	CASE NO.	C98-258L		
7	v.		{	ORDER			
8	UNIVERSIT et al.,	y of washington,	{	<u> </u>			
9	or arr,	Defendants.	į				
10							
11	The Court, having reviewed the Report and Recommendation of the Honorable David E						
12	Wilson, United States Magistrate Judge, and the balance of the record, does hereby find and						
13	ORDER:						
14	(1) The Court adopts the Report and Recommendation.						
15	(2) Defendants University of Washington, Kollin, Furness, Weinberg, and MIT's						
16		motions for summary jud	_				
17	(3)	The supplemental jurisdi	ction o	ver Plaintiff's state	law claims are DECLINED.		
18	(4) Plaintiff's claims against Defendants TIT, Weidemier, Kennedy, and Hart are						
19		DISMISSED.					
20	(5)	This action is dismissed	with pr	ejudice.			
21	(6) The Clerk is directed to send copies of this Order to plaintiff, to all counsel of						
22		record, and to the Honor	ıble Da	avid E. Wilson.			
23	DAT	ED this day of		, 2	000.		
24							
25			R	OBERT S. LASN	TK.		
26				Inited States Distri			
27	OBDER :						
28	ORDER - 1 c:\data\6780cg						
	1)						

United States District Court

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DENNIS J. SOLOMON, Plaintiff,			JUDGMENT IN A CIVIL CASE			
	٧.			CASE NUMBER	t: C98-258L	•
UNIVI	ERSITY OF WASHIN Defendants.	GTON, et al.				
_	Jury Verdict. This a rendered its verdict.	ction came before the	Court for a trial	by jury. The issues h	ave been tried and the j	jury has
<u>x</u>	Decision by Court. decision has been rea		onsideration befo	re the Court. The issu	es have been considere	ed and a
IT I	IS ORDERED AND A	DJUDGED				
claims	erg, and MIT's motion	s for summary judgmen s claims against Defend	nt are granted. 7	he supplemental jurisc	f Washington, Kollin, F liction over Plaintiff's s lart are dismissed. Thi	tate law
	Dated this da	y of	, 2000.			
			•	BRUCE	RIFKIN	
				Clerk		_
				and the second		
			De	puty Clerk		,

Document 3-5

Filed 02/15/2005

Page 2 of 2

Case 1:04-cv-12499-WGY

ORDER - 2

United States District Court

WESTERN DISTRICT OF WASHINGTON AT SEATTLE

HLED WAYER

FEB 15 2000

CLERK U.S. DISTRICT COURT
BY

WESTERN DISTRICT OF WASHINGTON

ENTERED

RECEIVED

DENNIS J. SOLOMON, Plaintiff,

APR 13 2000

JUDGMENT IN A CIVIL CASE

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

CASE NUMBER: C98-258L

UNIVERSITY OF WASHINGTON, et al.
Defendants

V.

- Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- X Decision by Court. This action came to consideration before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

The Report and Recommendation is adopted and approved. Defendants University of Washington, Kollin, Furness, Weinberg, and MIT's motions for summary judgment are granted. The supplemental jurisdiction over Plaintiff's state law claims are declined. Plaintiff's claims against Defendants TIT, Weidemier, Kennedy, and Hart are dismissed. This action is dismissed with prejudice.

Dated this 12 day of april, 2000.

Sail Alass

Deputy Clerk

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NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 2 0 2001

CATHY A. CATTERSON, CLERK

U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

- - -

DENNIS J. SOLOMON,

Plaintiff-Appellant,

v.

MICROVISION; et al.,

Defendants-Appellees.

No. 00-35431

D.C. No. CV-98-00258-RSL

MEMORANDUM*

RECEIVED

JUL 2 4 2001

MILLER NASH LLP

Appeal from the United States District Court for the Western District of Washington Robert S. Lasnik, District Judge, Presiding

Submitted July 9, 2001 **

Before: KOZINSKI, T. G. NELSON, and TALLMAN, Circuit Judges.

Dennis J. Solomon appeals pro se the district court's summary judgment in favor of defendants in his action arising from the alleged theft of trade secrets. We

This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by 9th Cir. R. 36-3.

The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2). Accordingly, appellant's request for oral argument is denied.

have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo summary judgments, Frost v. Agnos, 152 F.3d 1124, 1128 (9th Cir. 1998), and we affirm.

Solomon's appellate arguments fail to address the legal or factual basis upon which the district court granted summary judgment. Solomon has therefore abandoned these issues. *See Leer v. Murphy*, 844 F.2d 628, 634 (9th Cir. 1988) (deeming abandoned all issues raised in a brief not supported by argument).

Solomon's remaining contentions are without merit.

Appellee Teledyne Display Technology's renewed motion to strike the opening brief is denied.

AFFIRMED.

Filed 02/15/2005 CC: TO JUDGE_

JUDGMENT

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JAN - 3 2002 MANDATE ISSUED

NO. 00-35431

CT/AG#: CV-98-00258-RSL

DENNIS J. SOLOMON

Plaintiff - Appellant

MAIL

JAN 07 2002

MICROVISION

ν.

Defendant

and

UNIVERSITY OF WASHINGTON; JOEL KOLLIN; THOMAS FURNESS; MIT; JEAN WEIDEMIER; TELEDYNE DISPLAY TECHNOLOGIES; WILLIAM KENNEDY; BRIAN HART; MORRIS WEINBERG

Defendants - Appellees

APPEAL FROM the United States District Court for the Western District of Washington (Seattle).

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the Western District of Washington (Seattle) and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this cause be, and hereby is AFFIRMED.

A MARINEN BOY I DE PORTE AN BRITAIN I DE NEW MARINE A DE NEW MARINE FRANK I DE NEW MARINE

CV 98-00258 #00000176

ctoc, for, spmok

Filed and entered July 20, 2001

A TRUE COPY CATHY A. GATTERSON Clerk of Court ATTEST

JAN - 3/2002

by/wonya X/X Deputy Clerk

CLOSED, JURYDEMAND

U.S. District Court Western District of Washington (Seattle) CIVIL DOCKET FOR CASE #: 2:98-cv-00258-RSL

Solomon v. University of WA, et al Assigned to: Hon Robert S. Lasnik

Demand: \$0

Cause: 18:1961 Racketeering (RICO) Act

Date Filed: 03/02/1998 Jury Demand: Plaintiff Nature of Suit: 830 Patent Jurisdiction: Federal Question

Plaintiff

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LEAD ATTORNEY

Date Filed	#	Docket Text	
03/02/1998	COMPLAINT & Jury Demand (Summons(es) NOT issued) Receipt # 24 Modified on 03/16/1998 (Entered: 03/09/1998)		
03/12/1998	2	MINUTE ORDER: by Judge William L. Dwyer recuses himself and the Case reassigned to Judge Carolyn R. Dimmick (cc: counsel, WLD, CRD, Intake) (MD) (Entered: 03/13/1998)	
03/13/1998	3	ORDER OF REFERENCE by Judge Carolyn R. Dimmick Case referred to Magistrate Judge David E. Wilson (cc: counsel, CRD, DEW, PV) (KERR) (Entered: 03/16/1998)	
03/18/1998		SUMMONS ISSUED in blank as to defendants (Service Packet and Pro Se Packet sent to pltf) (KERR) (Entered: 03/18/1998)	
05/08/1998	4	ATTORNEY APPEARANCE for defendant Microvision by Susan Donnelly Fahringer, Albert Gidari Jr (KERR) (Entered: 05/11/1998)	
05/26/1998		ENT- Per cnsl, this is not a patent case but is a RICO case. I corrected docket sheet and notified Patent Office in DC. (MD) (Entered: 05/26/1998)	
06/09/1998	5	ATTORNEY APPEARANCE for defendant MIT by Beth Mattler Picardo (KERR) (Entered: 06/10/1998)	

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Case 1.04-07-12499-7761	Document 3-9	FIIEU 02/13/2003	Page 5 of 17 Page 5 of 17

O _E	130 1.04	cv-12499-WG1 Document 3-9 Filed 02/15/2005 Page 5 of 17 "sc 5 of		
06/09/1998	6	STIPULATION FOR EXTENSION OF TIME TO ANSWER COMPLAINT (KERR) (Entered: 06/10/1998)		
06/11/1998	7	ATTORNEY APPEARANCE for defendant Teledyne Display by Larry Steven Gangnes (KERR) (Entered: 06/12/1998)		
06/11/1998	8	AFFIDAVIT OF SERVICE by defendant Teledyne Display of attorney appearance [7-1] (KERR) (Entered: 06/12/1998)		
06/15/1998	9	NOTICE OF FILING WAIVER OF SERVICE by plaintiff (KERR) (Entered: 06/15/1998)		
06/15/1998	10	WAIVER OF SERVICE of summons upon defendant Microvision mailed on 5/11/98 (KERR) (Entered: 06/15/1998)		
06/15/1998	11	WAIVER OF SERVICE of summons upon defendant MIT mailed on 5/1/98 (KERR (Entered: 06/15/1998)		
06/17/1998	12	ATTORNEY APPEARANCE for defendant University of WA by Paul Joseph Triesch (KERR) (Entered: 06/19/1998)		
06/17/1998	13	REQUEST by defendant University of WA for statement of damages (KERR) (Entered: 06/19/1998)		
06/19/1998	14	RETURN OF SERVICE of summons and complaint executed upon defendant University of WA on 6/15/98 (KERR) (Entered: 06/22/1998)		
06/22/1998	15	AMENDED ATTORNEY APPEARANCE for defendant University of WA, defendant Joel Kollin, defendant Thomas Furness by Paul Joseph Triesch (KERR) (Entered: 06/23/1998)		
06/22/1998	16	ATTORNEY APPEARANCE for defendant Morris Weinberg by Jeffrey M Thomas (KERR) (Entered: 06/23/1998)		
06/22/1998	17	AFFIDAVIT OF SERVICE by defendant Morris Weinberg of attorney appearan [16-1] (KERR) (Entered: 06/23/1998)		
06/25/1998	18	AMENDED AFFIDAVIT OF SERVICE by defendant Morris Weinberg of attorney appearance [16-1] (KERR) (Entered: 06/25/1998)		
06/26/1998	19	AFFIDAVIT OF SERVICE by defendant University of WA, defendant Joel Kollin, defendant Thomas Furness of amd attorney appearance [15-1] (KERR) (Entered: 06/29/1998)		
07/01/1998	20	ATTORNEY APPEARANCE for defendant Altman Stage Light by Paul T. Meiklejohn, Craig S Jepson, Ramsey M Al-Salam (dktclk) (Entered: 07/02/1998)		
07/01/1998	21	AFFIDAVIT OF SERVICE by defendant Altman Stage Light of attorney ntc [20-1] (dktclk) (Entered: 07/02/1998)		
07/02/1998	22	MOTION by defendant Altman Stage Light to dismiss for lack of personal jurisdiction and for attorney's fees & costs NOTED FOR 7/24/98 (PM) (Entered: 07/03/1998)		
07/02/1998	23	MEMORANDUM by defendant Altman Stage Light in support of motion to dismiss for lack of personal jurisdiction and for attorney's fees & costs [22-1] (PM) (Entered: 07/03/1998)		
07/02/1998	24	DECLARATION of Randall Altman in support of Altman Stage Lighting Co's		

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		motion to dismiss for lack of personal jurisdiction and for attorney's fees & costs [22 1] (PM) (Entered: 07/03/1998)		
07/02/1998		LODGED ORDER: re: motion to dismiss for lack of personal jurisdiction and for attorney's fees & costs [22-1] (PM) (Entered: 07/03/1998)		
07/02/1998	25	AFFIDAVIT OF SERVICE by defendant Altman Stage Light of motion to dismiss for lack of personal jurisdiction and for attorney's fees & costs [22-1], of memorandum [23-1], of order lodged [0-0], of declaration [24-1] (PM) (Entered: 07/03/1998)		
07/18/1998	26	STATEMENT OF GENERAL & SPECIAL DAMAGES by plaintiff Dennis J Solomon (dktclk) (Entered: 07/20/1998)		
07/20/1998	27	ANSWER & AFFIRMATIVE DEFENSES to complaint [1-1] by defendant Morris Weinberg (dktclk) (Entered: 07/21/1998)		
07/20/1998	28	AFFIDAVIT OF SERVICE by defendant Morris Weinberg of answer [27-1] (dktclk (Entered: 07/21/1998)		
07/20/1998	29	RESPONSE (OPPOSITION) by plaintiff Dennis J Solomon to dft Altman's motion to dismiss for lack of personal jurisdiction and for attorney's fees & costs [22-1] (dktclk) (Entered: 07/23/1998)		
07/20/1998	30	AFFIDAVIT of Dennis J. Solomon re: motion response [29-1] (dktclk) (Entered: 07/23/1998)		
07/20/1998	31	LETTER by plaintiff Dennis J Solomon requesting 20 subpoenas iss'd & mailed 7/24/98 (dktclk) Modified on 07/28/1998 (Entered: 07/23/1998)		
07/20/1998	32	RETURN OF SERVICE of summons and complaint executed upon defendant University of WA on 6/18/98 (dktclk) (Entered: 07/23/1998)		
07/20/1998	33	WAIVER OF SERVICE of summons upon defendant Morris Weinberg mailed on 5/18/98 (dktclk) (Entered: 07/23/1998)		
07/20/1998	34	RETURN OF SERVICE of summons and complaint executed upon defendant Altman Stage Light on 6/12/98 (dktclk) (Entered: 07/23/1998)		
07/23/1998	35	REPLY MEMORANDUM by defendant Altman Stage Light in support of motion to dismiss for lack of personal jurisdiction and for attorney's fees & costs [22-1] (dktclk) (Entered: 07/27/1998)		
07/24/1998	36	AMENDED AFFIDAVIT OF SERVICE by defendant Morris Weinberg of answer [27-1] (dktclk) (Entered: 07/27/1998)		
08/05/1998	37	PORT AND RECOMMENDATION regarding motion to dismiss for lack of personal jurisdiction and for attorney's fees & costs [22-1] by Magistrate Judge David E. Wilson NOTED FOR 8/28/98 (cc. counsel, Judge) (MD) (Entered: 08/05/1998)		
08/05/1998		LODGED ORDER: re: report & recommendation motion by Magistrate Judge David E. Wilson NOTED FOR 8/28/98 (cc: counsel, Judge) [37-1] (MD) (Entered: 08/05/1998)		
08/24/1998	38	MOTION by plaintiff Dennis J Solomon for leave to amend complaint to transfer to USDC New York and petition MDL Panel for a Consolidation of Discovery NOTED FOR 9/11/98 (dktclk) (Entered: 08/25/1998)		

08/24/1998	39	WAIVER OF SERVICE of summons upon defendant Joel Kollin mailed on 7/14/98 (dktclk) (Entered: 08/25/1998)		
08/24/1998	40	WAIVER OF SERVICE of summons upon defendant Thomas Furness mailed on 7/9/98 (dktclk) (Entered: 08/25/1998)		
09/02/1998	41	ORDER by Judge Carolyn R. Dimmick GRANTING report & recommendation [37-1] by Magistrate Judge David E. Wilson that recommended granting dft's mtn to dismiss. Dft Altman Stage Lighting is, therefore, dismissed from this action. terminating defendant Altman Stage Light (cc: counsel, Judge) (dktclk) (Entered: 09/02/1998)		
09/02/1998	42	ANSWER to complaint [1-1] by defendant University of WA, defendant Joel Kollin defendant Thomas Furness (dktclk) (Entered: 09/03/1998)		
09/08/1998	43	OBJECTION to subpoena filed by Gregg Favalora (dktclk) (Entered: 09/09/1998)		
09/16/1998	44	MINUTE ORDER: by Judge Carolyn R. Dimmick STRIKING motion for leave to amend complaint to transfer to USDC New York and petition MDL Panel for a Consolidation of Discovery [38-1] as moot as it relates to claims against Altman Stage Lighting Co which has been dismissed for lack of personal jurisdiction. (cc: counsel, Judges) (dktclk) Modified on 09/16/1998 (Entered: 09/16/1998)		
10/29/1998	45	MOTION by defendant Microvision for summary judgment; ORAL ARG REQ'D NOTED FOR 11/20/98 (dktclk) (Entered: 10/30/1998)		
10/29/1998	46	MEMORANDUM by defendant Microvision in support of motion for summary judgment and to dismiss pltf Holodeck Trust [45-1] (dktclk) (Entered: 10/30/1998)		
10/29/1998	47	DECLARATION of Clarence T. Tegreene by defendant Microvision re motion for summary judgment [45-1] (dktclk) (Entered: 10/30/1998)		
10/29/1998	48	DECLARATION of Richard Rutkowski by defendant Microvision re motion for summary judgment [45-1] (dktclk) (Entered: 10/30/1998)		
10/29/1998		LODGED ORDER: re: motion for summary judgment; ORAL ARG REQ'D [45-1] (dktclk) (Entered: 10/30/1998)		
10/29/1998	49	AFFIDAVIT OF SERVICE by defendant Microvision of motion for summary judgment [45-1] and supporting docs (dktclk) (Entered: 10/30/1998)		
11/16/1998	50	RESPONSE (OPPOSITION) by plaintiff Dennis J Solomon to dft Microvision's motion for summary judgment [45-1] (dktclk) (Entered: 11/19/1998)		
11/19/1998	51	REPLY BRIEF by defendant Microvision in support of motion for summary judgment [45-1] (dktclk) (Entered: 11/20/1998)		
11/19/1998	52	AFFIDAVIT OF SERVICE by defendant Microvision of motion reply [51-1] (dktclk) (Entered: 11/20/1998)		
11/25/1998	53	MINUTE ORDER: by Judge Carolyn R. Dimmick Case reassigned to Judge Robert S. Lasnik. Case number now ends with "L." All dates remain in effect. (cc: counsel, Judge) (dktclk) (Entered: 11/30/1998)		
12/16/1998	54	ORDER TO SHOW CAUSE: by Magistrate Judge David E. Wilson directing pltfs to show cause by 1/14/99 why Pltf HoloDeck should not be dismissed as pltf from this case (cc: counsel, DEW) (RS) (Entered: 12/16/1998)		
12/17/1998	55	MOTION by plaintiff Dennis J Solomon to amend NOTED FOR 1/1/99; not noted		

		by pltf contacted pltf re: noting date (NS) (Entered: 12/21/1998)
01/05/1999	56	REPORT AND RECOMMENDATION regarding granting dft Microvision's motion for summary judgment [45-1] by Magistrate Judge David E. Wilson NOTED FOR 1/29/99 (cc. counsel, Judge) (RS) (Entered: 01/06/1999)
01/05/1999		LODGED ORDER: REPORT AND RECOMMENDATION regarding granting dft Microvision's motion for summary judgment [45-1] [56-1] (RS) (Entered: 01/06/1999)
01/12/1999	57	NOTICE by plaintiff that the following is NOTED FOR 1/1/99: motion to amend (RS) (Entered: 01/14/1999)
01/14/1999	59	SUPPLEMENTAL REPORT AND RECOMMENDATION addressing dft Microvision's motion for summ jgm by Magistrate Judge David E. Wilson NOTED FOR 1/29/99 (cc. counsel, Judge) (RS) (Entered: 01/19/1999)
01/14/1999		LODGED ORDER: re: SUPPLEMENTAL REPORT AND RECOMMENDATION addressing dft Microvision's motion for summ jgm [59-1] (RS) (Entered: 01/19/1999)
01/15/1999	58	ORDER by Magistrate Judge David E. Wilson GRANTING pltfs' motion to amend the complaint [55-1] (cc: counsel, Judge) (RS) (Entered: 01/15/1999)
01/25/1999	60	Objections to Report and Recommendation by plaintiff NOTED FOR 2/12/99. Not noted-ltr sent (RS) (Entered: 01/26/1999)
01/25/1999	61	Objections to Supplemental Report and Recommendation by plaintiff Dennis J Solomon NOTED FOR 2/12/99. Not noted-ltr sent (RS) (Entered: 01/26/1999)
01/25/1999	62	MOTION by plaintiff Rule 56(f) motion for a continuance related to dft Microvision's motion for summary jgm NOTED FOR 2/12/99 (RS) (Entered: 01/26/1999)
01/25/1999		LODGED ORDER: re: motion Rule 56(f) motion for a continuance related to dft Microvision's motion for summary jgm [62-1] (RS) (Entered: 01/26/1999)
01/25/1999	63	RESPONSE by defendant Microvision to Objections to Supplemental Report and Recommendation [61-1] (RS) (Entered: 01/28/1999)
01/25/1999	64	AFFIDAVIT OF SERVICE by defendant Microvision of response [63-1] (RS) (Entered: 01/28/1999)
01/28/1999	65	REPORT AND RECOMMENDATION regarding dismissing pltf HoloDeck Trust as a party by Magistrate Judge David E. Wilson NOTED FOR 2/19/99 (cc: counsel, Judge) (RS) (Entered: 02/01/1999)
01/28/1999		LODGED ORDER: re: REPORT AND RECOMMENDATION regarding dismissing pltf HoloDeck Trust as a party [65-1] (RS) (Entered: 02/01/1999)
02/12/1999	66	SUPPLEMENTAL MEMORANDUM by plaintiff Dennis J Solomon re motion Rule 56(f) motion for a continuance related to dft Microvision's motion for summary jgm [62-1] (dktclk) (Entered: 02/17/1999)
03/01/1999	67	ORDER by Judge Robert S. Lasnik adopting the REPORT AND RECOMMENDATION regarding dismissing pltf HoloDeck Trust as a party [65-1] (cc: counsel, DEW, Judge) (RS) (Entered: 03/02/1999)
03/02/1999	68	ORDER by Judge Robert S. Lasnik DENYING pltf's motion Rule 56(f) motion for a

Qa.	Se 1.04-	2.3 - Docket Report CV-12499-WGY Document 3-9 Filed 02/15/2005 Page 9 of 17 Page 9 of continuance related to dft Microvision's motion for summary jgm [62-1]; adopting the 1/5/99 and 1/14/99 reports and recommendations of Judge Wilson; dft Microvision's motion for summ jgm is GRANTED; dft Microvision is DISMISSED from this action (cc: counsel,DEW,Judge) (RS) (Entered: 03/02/1999)
03/15/1999	69	MOTION by plaintiff for reconsideration of order of summary judgment of 3/2/99 NOTED FOR 3/19/99 (VK) (Entered: 03/16/1999)
03/16/1999	70	Bill of costs; taxation due by 3/22/99 at 9:00 (assigned to Clerk Bruce Rifkin) by defendant Microvision NOTED FOR 3/22/99 (VK) (Entered: 03/17/1999)
03/16/1999	71	NOTICE OF APPLICATION FOR TAXATION OF COSTS AND DISBURSEMENTS by defendant Microvision (VK) (Entered: 03/17/1999)
03/16/1999	72	MEMORANDUM by defendant Microvision re Bill of costs; taxation due by 3/22/99 at 9:00 (assigned to Clerk Bruce Rifkin) [70-1] (VK) (Entered: 03/17/1999)
03/29/1999	73	MOTION by plaintiff for protective order NOTED FOR 4/16/99. Not noted-ltr sent (RS) (Entered: 03/31/1999)
03/29/1999	74	REQUEST by plaintiff for judicial notice of new evidence in further support of motion for reconsideration of order of summ jgm of 3/2/99 (RS) (Entered: 03/31/1999)
04/02/1999	75	COSTS taxed for defendant Microvision in the amount of \$ 313.80 against plaintiffs Dennis J Solomon and Holodeck Trust (cc. counsel, Judge, Jgm. Book) (VK) (Entered: 04/02/1999)
04/27/1999	76	ORDER DENYING RECONSIDERATION by Judge Robert S. Lasnik DENYING motion for reconsideration of order of summary judgment of 3/2/99 [69-1] (cc: counsel, Judge) (VK) (Entered: 04/28/1999)
04/29/1999	77	MOTION by plaintiff Dennis J Solomon to appeal order taxing costs dated 4/2/99 NOTED FOR 5/14/99 (Not noted, ltr sent) (VK) (Entered: 05/04/1999)
05/18/1999	78	ORDER TO SHOW CAUSE by Magistrate Judge David E. Wilson: dfts' to show cause whether they oppose pltf's motion for protective order by 5/24/99; pltf's motion for protective order [73-1] RENOTED FOR 5/28/99 (cc: counsel, Judge) (VK) (Entered: 05/20/1999)
05/21/1999	79	REQUEST by plaintiff for admission to deft Joel Kollin (VK) (Entered: 05/24/1999)
05/21/1999	80	REQUEST by plaintiff for admission to deft Teledyne, Inc. (VK) (Entered: 05/24/1999)
05/24/1999	81	RESPONSE TO ORDER TO SHOW CAUSE by defendant MIT re: order [78-2] (VK) (Entered: 05/27/1999)
05/24/1999	82	AFFIDAVIT OF SERVICE by defendant MIT of response [81-1] (VK) (Entered: 05/27/1999)
05/24/1999	83	RESPONSE TO ORDER TO SHOW CAUSE by defendant Morris Weinberg re: order [78-2] (VK) (Entered: 05/27/1999)
05/24/1999	84	AFFIDAVIT OF SERVICE by defendant Morris Weinberg of response to order to show cause [83-1] (VK) (Entered: 05/27/1999)
05/26/1999	85	RESPONSE to order to show cause by defendant Joel Kollin, defendant University of WA, defendant Thomas Furness re: order [78-2] (VK) (Entered: 05/27/1999)

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05/26/1999	I	DECLARATION of Paul J. Triesch by defendant Joel Kollin, defendant Thomas Furness, defendant University of WA re: response to order to show cause [85-1] (VK) (Entered: 05/27/1999)
05/26/1999	87	AFFIDAVIT OF SERVICE by defendant University of WA, defendant Joel Kollin, defendant Thomas Furness of response to order to show cause [85-1] etc. (VK) (Entered: 05/27/1999)
05/27/1999	88	NOTICE OF APPEAL by plaintiff Dennis J Solomon from Dist. Court decision [68-1 & 76] (cc: CCA, RSL, counsel) (JK) (Entered: 05/28/1999)
05/27/1999		NO APPEAL FEE RECEIVED: Appellant Dennis J. Solomon NOT IFP @ USDC. (JK) (Entered: 05/28/1999)
05/28/1999		CERTIFICATE OF RECORD Transmitted to USCA (cc: all counsel) (JK) (Entered: 05/28/1999)
05/28/1999		APPEAL NOTIFICATION packet sent to CCA (cc: cnsl) (JK) (Entered: 05/28/1999)
06/02/1999	89	ORDER by Magistrate Judge David E. Wilson DENYING pltf's motion for protective order [73-1] for failure to serve all counsel (cc: counsel, DEW) (RS) (Entered: 06/02/1999)
06/03/1999	90	SUBSTITUTION OF COUNSEL on behalf of Microvision substituting atty Susan Fahringer for withdrawing atty Albert Gidari (RS) (Entered: 06/04/1999)
06/03/1999	91	AFFIDAVIT OF SERVICE by defendant of attorney [90-1] substitution (RS) (Entered: 06/04/1999)
06/17/1999	92	MOTION by plaintiff to proceed in forma pauperis NOTED FOR 7/2/99 (not noted, ltr sent) (VK) (Entered: 06/22/1999)
06/17/1999	93	MOTION by plaintiff for protective order NOTED FOR 7/2/99 (not noted, ltr sent) (VK) (Entered: 06/22/1999)
06/17/1999		LODGED ORDER: re: pltf's motion for protective order [93-1] (VK) (Entered: 06/22/1999)
06/25/1999	94	RESPONSE by defendant University of WA, defendant Joel Kollin, defendant Thomas Furness to pltfs' motion for protective order [93-1] (VK) (Entered: 06/28/1999)
06/25/1999	95	AFFIDAVIT OF SERVICE by defendant University of WA, defendant Joel Kollin, defendant Thomas Furness of motion response [94-1] (VK) (Entered: 06/28/1999)
06/25/1999	96	RESPONSE by defendant Joel Kollin re: request [79-1] (VK) (Entered: 06/28/1999)
06/25/1999	97	AFFIDAVIT OF SERVICE by defendant Joel Kollin of response [96-1] (VK) (Entered: 06/28/1999)
06/30/1999	98	ORDER by Magistrate Judge David E. Wilson STRIKING pltf's motion to proceed in forma pauperis [92-1] as MOOT (cc: counsel, Judge) (VK) (Entered: 06/30/1999)
07/06/1999	99	REQUEST by plaintiff for admission to deft Morris Weinberg (VK) (Entered: 07/07/1999)
07/15/1999	1 <u>00</u>	ORDER by Magistrate Judge David E. Wilson GRANTING IN PART pltf's motion for protective order [93-1] (cc. counsel, DEW) (dktclk) (Entered: 07/16/1999)
07/22/1999	101	ORDER by Judge Robert S. Lasnik DENYING pltf's motion to appeal order taxing

		costs dated 4/2/99 [77-1] (cc: counsel, Judge) (RS) (Entered: 07/23/1999)	
08/19/1999	102		
08/19/1999	103		
08/19/1999		LODGED ORDER: re: motion for summary judgment [102-1] (RS) (Entered: 08/19/1999)	
08/19/1999	104	AFFIDAVIT OF SERVICE by defendant of motion for summary judgment [102-1] etc (RS) (Entered: 08/19/1999)	
08/20/1999	105	NOTICE by defendant MIT of change of address (VK) (Entered: 08/26/1999)	
08/20/1999	106		
09/07/1999	107	TIME SCHEDULE ORDER (CCA 99-35827) Appellant shall notify appellee of transcripts to be ordered by 6/7/99; appellee shall notify appellant of any additional transcripts needed by 6/16/99; appellant shall file transcript order form with the district court and make payment arrangements with court reporter by 6/28/99; Court reporter shall file transcript in the district court by 7/27/99; appellee's opening brf and excerpts of record shall be served and filed by 9/13/99; the brf of appellee shall be filed and served by 10/12/99. (dktclk) (Entered: 09/08/1999)	
09/10/1999	108	MOTION by plaintiff to continue dfts' mtn for sum jgmt to conduct depositions delayed at the request of dfts NOTED FOR 10/1/99 (Mtn noting letter sent) (KEI (Entered: 09/15/1999)	
09/10/1999	109	RESPONSE (PRELIMINARY MEMO IN OPPOSITION) by plaintiff to motion summary judgment [102-1] (Attachment) (KERR) (Entered: 09/15/1999)	
09/14/1999	110	REPLY by defendant University of WA, defendant Joel Kollin, defendant Thoma Furness TO RESPONSE to their motion for summary judgment [102-1] (VK) Entered: 09/16/1999)	
09/14/1999	111	RESPONSE by defendant University of WA, defendant Joel Kollin, defendant Thomas Furness to pltf's motion to continue dfts' mtn for sum jgmt to conduct depositions delayed at the request of dfts [108-1] (VK) (Entered: 09/16/1999)	
09/14/1999	112	AFFIDAVIT OF SERVICE by defendant University of WA, defendant Joel Kollin, defendant Thomas Furness of motion reply [110-1] etc. (VK) (Entered: 09/16/1999)	
09/15/1999	113	RESPONSE by plaintiff to defts' motion for summary judgment [102-1] and request for telephonic argument (VK) (Entered: 09/17/1999)	
09/27/1999	114	RESPONSE IN OPPOSITION by plaintiff Dennis J Solomon to defendants' motion to strike exhibits (MH) (Entered: 09/30/1999)	
09/27/1999	115	SUPPLEMENTAL RESPONSE/MEMORANDUM IN OPPOSITION by plaintiff Dennis J Solomon to motion for summary judgment [102-1] (MH) (Entered: 09/30/1999)	
0/12/1999	117	MANDATE (99-35827) from Circuit Court of Appeals DISMISSING the appeal [88-1]. On consideration whereof, it is now here ordered and adjudged by this court, that the appeal in this cause by, and herey is dismissed. (cc: RSL, all counsel) Order attached. (dktclk) (Entered: 10/15/1999)	

10/13/1999	116	ORDER by Magistrate Judge David E. Wilson DENYING pltf's motion to continue dfts' mtn for sum jgmt to conduct depositions delayed at the request of dfts [108-1]; pltf's supplemental memo in opposition to defts' motion for summary judgment is STRICKEN as untimely (cc: counsel, DEW) (VK) (Entered: 10/14/1999)		
10/21/1999	118	MOTION & Declarations by defendant University of WA, defendant Joel Kollin, defendant Thomas Furness to strike declarations & documents submitted by pltf in response to defts motion for summary judgment NOTED FOR 11/5/99 (dktclk) (Entered: 10/25/1999)		
10/21/1999		LODGED ORDER: re: motion to strike declarations & documents submitted by plt: in response to defts motion for summary judgment [118-1] (dktclk) (Entered: 10/25/1999)		
10/21/1999	119	AFFIDAVIT OF SERVICE by defendant of motion to strike declarations & documents submitted by pltf in response to defts motion for summary judgment [118-1] (dktclk) (Entered: 10/25/1999)		
10/25/1999	120	OBJECTIONS by plaintiff Dennis J Solomon to Magistrate's Order of 10/13/99 [116-1] (dktclk) (Entered: 10/25/1999)		
10/25/1999	121			
10/25/1999	122			
11/01/1999	123			
11/24/1999	124	MOTION by defendant MIT for summary judgment NOTED FOR 12/17/99 (VK) (Entered: 11/30/1999)		
11/24/1999		LODGED ORDER: re: granting MIT's motion for summary judgment [124-1] (VK) (Entered: 11/30/1999)		
11/24/1999	125	MOTION by defendant MIT to stay discovery NOTED FOR 12/10/99 (VK) (Entered: 11/30/1999)		
1/24/1999		LODGED ORDER: re: granting MIT's motion to stay discovery [125-1] (VK) (Entered: 11/30/1999)		
1/24/1999	126	MOTION by defendant MIT to shorten time on motion to stay discovery [125-1] NOTED FOR 12/1/99 (VK) (Entered: 11/30/1999)		
1/24/1999	127	AFFIDAVIT OF SERVICE by defendant MIT of motion for summary judgment [124-1] etc. (VK) (Entered: 11/30/1999)		
2/02/1999	128	MINUTE ORDER: by Magistrate Judge David E. Wilson STRIKING deft MIT's motion to shorten time on motion to stay discovery [125-1] [126-1], NOTED FOR 12/10/99 deft MIT's motion to stay discovery (cc: counsel, Judge) (VK) (Entered: 12/03/1999)		
2/09/1999	129	MOTION by defendant Morris Weinberg for summary judgment NOTED FOR 12/31/99 (KERR) (Entered: 12/13/1999)		
2/09/1999	130	MEMORANDUM by defendant Morris Weinberg in support of motion for summary judgment [129-1] (KERR) (Entered: 12/13/1999)		
2/09/1999		DECLARATION of Dr J Morris Weinberg by defendant Morris Weinberg in suppor		

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		of motion for summary judgment [129-1] (KERR) (Entered: 12/13/1999)		
12/09/1999	DECLARATION of Maura Scott Blank by defendant Morris Weinberg in supposition for summary judgment [129-1] (Exhibits A-D Attached) (KERR) (Enter 12/13/1999)			
12/09/1999	133	LODGING OF AUTHORITIES by defendant Morris Weinberg (KERR) (Entered: 12/13/1999)		
12/09/1999	134	AFFIDAVIT OF SERVICE by defendant Morris Weinberg of motion for summary judgment [129-1], etc. (KERR) (Entered: 12/13/1999)		
12/13/1999	135	RESPONSE by plaintiff to motion for summary judgment [124-1] (KERR) (Entered 12/16/1999)		
12/17/1999	1 <u>36</u>	ORDER by Magistrate Judge David E. Wilson GRANTING defts' motion to stri declarations & documents submitted by pltf in response to defts motion for summing judgment [118-1], GRANTING MIT's motion to stay discovery [125-1], RENOT FOR 12/31/99 motion for summary judgment [102-1], RENOTED FOR 12/31/99 motion for summary judgment [124-1], RENOTED FOR 12/31/99 motion for summary judgment [129-1], striking pltf's supplemental memo [121] as untimely counsel, Judge) (VK) (Entered: 12/20/1999)		
12/27/1999	148	RESPONSE/memorandum in opposition by plaintiff to deft Weinberg's motion for summary judgment (OA REQUESTED)[129-1] (VK) (Entered: 02/10/2000)		
12/29/1999	137			
12/29/1999	138	MOTION by defendant Weinberg to shorten time on motion to strike [137-1] NOTED FOR 1/4/00 (RS) (Entered: 12/30/1999)		
12/29/1999	139	AFFIDAVIT OF SERVICE by defendant Morris Weinberg of motion to strike [137-1] (RS) (Entered: 12/30/1999)		
12/30/1999	140	REPLY by MIT TO RESPONSE to motion for summary judgment [124-1] (PV) (Entered: 12/30/1999)		
12/30/1999	141	AFFIDAVIT OF SERVICE by defendant MIT of motion reply [140-1] (KERR) (Entered: 12/30/1999)		
12/30/1999	142	REPLY by defendant Morris Weinberg TO RESPONSE to motion for summary judgment [129-1] (KERR) (Entered: 12/30/1999)		
01/04/2000	143			
01/10/2000	144	Appeal (Objection and Request for review) from Magistrate's Order [136-2] (assigned to Judge Robert S. Lasnik) OA REQ'D by plaintiff NOTED FOR 1/28/00; incorrectly noted-ltr sent (RS) (Entered: 01/12/2000)		
01/10/2000	145	MOTION by plaintiff for reconsideration of its opposition to dft MIT's motion to stay discovery OA REQ'D NOTED FOR 1/14/00; incorrectly noted (RS) (Entered: 01/12/2000)		
01/10/2000	146	RESPONSE (OPPOSITION) by plaintiff to dft Weinberg's motion to shorten time of 12/29/99 (RS) (Entered: 01/12/2000)		

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01/13/2000	147	MEMORANDUM by plaintiff Dennis J Solomon in opposition to deft Weinberg's motion to strike exhibits [137-1] (MD) (Entered: 01/14/2000)	
02/15/2000	149	REPORT AND RECOMMENDATION regarding MIT's motion for summary judgment [129-1], deft Weinberg's motion for summary judgment [124-1], defts UW, Kollin, & Furness' motion for summary judgment [102-1] by Magistrate Judge David E. Wilson NOTED FOR 3/3/00 (cc: counsel, Judge) (VK) (Entered: 02/15/2000)	
02/15/2000		LODGED ORDER: re: granting MIT's motion for summary judgment [129-1], deft Weinberg's motion for summary judgment [124-1], defts UW, Kollin, & Furness' motion for summary judgment [102-1] [149-1] (VK) (Entered: 02/15/2000)	
02/15/2000		LODGED JUDGMENT re: [149-1] adopting REPORT AND RECOMMENDATION regarding granting MIT's motion for judgment [129-1], deft Weinberg's motion for summary judgment [124-1], defts UW, Kollin, & Furness' motion for summary judgment [102-1] (VK) (Entered: 02/15/2000)	
02/15/2000	1 <u>50</u>	ORDER by Magistrate Judge David E. Wilson DENYING pltf's motion for reconsideration of its opposition to dft MIT's motion stay discovery OA REQ'D [145-1], STRIKING deft Weinburg's motion to strike [137-1] as moot (cc. counsel, Judge) (VK) (Entered: 02/15/2000)	
02/18/2000	1 <u>51</u>	ORDER by Judge Robert S. Lasnik DENYING pltf's appeal motion Appeal (Objection and Request for review) from Magistrate's Order [136-2] (assigned to Judge Robert S. Lasnik) OA [144-1] (cc: counsel, Judge, DEW) (VK) (Entered: 02/18/2000)	
02/29/2000	152	Appeal (Objection) from Magistrate's Order of 2/15/00 [150-1] OA REQ'D by plaintiff Dennis J Solomon NOTED FOR 3/17/00 (RS) (Entered: 03/01/2000)	
03/02/2000	153		
03/02/2000	154	MOTION by plaintiff Dennis J Solomon for a continuance of the defendant's motion for summary judgment NOTED FOR 3/17/00; not noted ltr sent (dktclk) Modified on 03/07/2000 (Entered: 03/07/2000)	
03/07/2000	155	RESPONSE by defendant University of WA, defendant Joel Kollin, defendant Thomas Furness to motion for a continuance of the defendant's motion for summary judgment [154-1] (KERR) (Entered: 03/08/2000)	
04/07/2000	156		
04/13/2000	1 <u>57</u>	JUDGMENT by Clerk Bruce Rifkin Report and Recommendation is adopted and approved. Defts University of Washington, Kollin, Furness, Weinberg, and MIT's motions for summary judgment re granted. The supplemental jurisdiction over pltf's state law claims are declined. Pltf's claims against defts TIT, Weidemier, Kennedy, and Hart are dismissed. This action is dismissed with prejudice (cc: counsel, Judge, Jgm. Book) Entered on: 4/14/00 (VK) (Entered: 04/14/2000)	
04/21/2000	158	MOTION by plaintiff for extension of time for file a memorandum in support of reconsideration NOTED FOR 5/12/00 (not noted, ltr sent) (VK) Modified on	

Ca	se 1:04-0	2.3 - Docket Report cv-12499-WGY Document 3-9 Filed 02/15/2005 Page 15 of 17 age 15 of 04/21/2000 (Entered: 04/21/2000)		
04/21/2000	161	MOTION by plaintiff for reconsideration of orders (RS) (Entered: 05/18/2000)		
05/13/2000	159			
05/13/2000		NO APPEAL FEE RECEIVED: Appellant Dennis J. Solomon NOT IFP @ USDC. (dktclk) (Entered: 05/15/2000)		
05/15/2000		CERTIFICATE OF RECORD Transmitted to USCA (cc: all counsel) (dktclk) (Entered: 05/15/2000)		
05/15/2000		APPEAL NOTIFICATION packet sent to CCA (cc: cnsl) (dktclk) (Entered: 05/15/2000)		
05/15/2000	160	NOTICE OF APPEAL (00-35431) by plaintiff Dennis J Solomon from Dist. Court decision [157-2] (cc: CCA, RSL, counsel) (dktclk) Modified on 09/12/2000 (Entered: 05/15/2000)		
05/15/2000		NO APPEAL FEE RECEIVED: Appellant Dennis J. Solomon NOT IFP @ USDC. (dktclk) (Entered: 05/15/2000)		
05/15/2000		CERTIFICATE OF RECORD Transmitted to USCA (cc: all counsel) (dktclk) (Entered: 05/15/2000)		
05/15/2000		APPEAL NOTIFICATION packet sent to CCA (cc: cnsl) (dktclk) (Entered: 05/15/2000)		
05/18/2000	<u>16</u> 2	ORDER by Judge Robert S. Lasnik GRANTING pltf's motion for extension of time for file a memorandum in support of reconsideration [158-1]. Pltf's motion for reconsideration of orders [161-1] is noted for 6/2/00 (cc: counsel, Judge) (RS) (Entered: 05/18/2000)		
05/18/2000		NOTIFICATION by Circuit Court of Appellate Docket Number 00-35431 (Solomon) (dktclk) (Entered: 05/23/2000)		
05/18/2000	163	TIME SCHEDULE ORDER (CCA 00-35431) Appellant's opening brf and excerpts of record shall be served and filed by 6/20/00; the brf of appellee shall be filed and served by 7/20/00. (dktclk) (Entered: 05/23/2000)		
05/18/2000		NOTIFICATION by Circuit Court of Appellate Docket Number 00-35430 (Solomon) (dktclk) (Entered: 05/23/2000)		
05/18/2000	164	TIME SCHEDULE ORDER (CCA 00-35430) Appellant's opening brf and excerpts of record shall be served and filed by 6/20/00; the brf of appellee shall be filed and served by 7/20/00. (dktclk) (Entered: 05/23/2000)		
05/19/2000	165	NOTICE by atty Paul T Meiklejohn of Dorsey & Whitney do not represent dft Altma Stage. (CL) (Entered: 05/23/2000)		
05/25/2000	166	SUBSTITUTION OF COUNSEL on behalf of Morris Weinberg subst. atty Jeffrey Thomas terminating attorney Maura Scott Blank for Morris Weinberg (CL) (Entered: 06/02/2000)		
06/01/2000	167	MOTION by plaintiff for reconsideration of orders & final judgment of the present case and voluntary recusal NOTED FOR 6/2/00 (VK) (Entered: 06/05/2000)		

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06/07/2000	168	ORDER by Judge Robert S. Lasnik DENYING pltf's motion for reconsideration of orders & final judgment of the present case and voluntary recusal [167-1] (cc: counsel, Judge) (VK) (Entered: 06/07/2000)		
06/17/2000	169	ORDER (CCA 00-35430 and 00-35431) Within 14 days after entry of this order, appellant shall move for voluntary dismissal of appeal no. 00-35430 or show cause why it should not be dismissed as duplicative. The court's records reflect that the notices of appeal were filed during the pendency of a timely filed motion listed in FRAP 4(a)(4). The notices of appeal are therefore ineffective until entry of the order disposing of the last such mtn outstanding. Accordingly, the briefing schedule in this court shall be held in abeyance pending the district court's reolution of the pending mtn. Within 7 days of the district court's ruling on the pending mtn, appellant shall notify this court in writing of the ruling and shall advise whether appellant intends to prosecute these appeals. (SH) (Entered: 06/19/2000)		
06/27/2000	170	NOTICE OF APPEAL (00-35570) by plaintiff Dennis J Solomon from Dist. Court decision [168-1], [157-2] (cc: CCA, RSL, counsel) (SH) Modified on 07/11/2000 (Entered: 06/27/2000)		
06/27/2000		NO APPEAL FEE RECEIVED: Appellant not granted IFP at USDC. (SH) (Entered: 06/27/2000)		
06/27/2000		CERTIFICATE OF RECORD Transmitted to USCA (cc: all counsel) (SH) (Entered: 06/27/2000)		
06/27/2000		APPEAL NOTIFICATION packet sent to CCA (cc: cnsl) (SH) (Entered: 06/27/2000)		
07/06/2000	171	DUPICATE NOTICE OF APPEAL by plaintiff Dennis J Solomon to appeal filed on 6/27/00. (SH) (Entered: 07/06/2000)		
07/10/2000		NOTIFICATION by Circuit Court of Appellate Docket Number 00-35570 (SH) (Entered: 07/11/2000)		
07/10/2000	172	TIME SCHEDULE ORDER (CCA 00-35570) Appellant's opening brief and excerpts of record shall be served and filed by 8/8/00; brief of appellee shall be filed and served by 9/7/00. (SH) (Entered: 07/11/2000)		
07/17/2000	173	SUBSTITUTION OF COUNSEL on behalf of MIT substituting Mary S. Petersen and terminating attorney Mary R DeYoung (KERR) (Entered: 07/19/2000)		
07/21/2000		APPEAL FEE RECEIVED (00-35431): fee in amount of \$ 105.00 (Receipt 600005) (SH) Modified on 09/12/2000 (Entered: 07/25/2000)		
07/24/2000	174	MANDATE from Circuit Court of Appeals (00-35430) is dismissed as duplicative of appeal no. 00-35431. The court, on its own motion, consolidates appeal nos. 00-35431 and 00-35570. A review of this ct's docket reflects that the filing and docketing fees for appeal nos. 00-35431 and 00-35570 remain due. Within 14 days after the date of this order, appellant shall pay to the district court the \$105.00 filing and docketing fees for each appeal and file in this court proof of such payment or file in this court a mtn to proceed IFP. Failue to pay the fees or file a mtn to proceed IFP will result in automatic dismissal of the appeal by the Clerk for failure to prosecute. If appellant pays the fees as required, the following briefing scheulde shall govern these consolidated appeals: the consolidated openign brief will be due 8/30/00; the consolidated answering briefs will be due 9/29/00; and the optional consolidated reply brief will be due 14 days after service of the answering briefs. [159-1](cc:RSL, all counsel, jgm book) (SH) (Entered: 07/24/2000)		

08/26/2000	1	MANDATE from Circuit Court of Appeals (00-35570) DISMISSING the appeal for failure to comply with the rules requiring processing the appeal to hearing. [171-1] (cc:RSL, all counsel) (SH) (Entered: 08/29/2000)	
06/19/2001	CLERK'S RECORD ON APPEAL transmitted to Circuit, 3 volumes (SA) (Entered: 06/19/2001)		
01/07/2002	176	MANDATE (00-35431) from Circuit Court of Appeals AFFIRMING the decision of the District Court [160-1] (cc. all counsel, RSL, jgm bk) (SA) (Entered: 01/07/2002)	

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